

LC No. _____
HB/SB _____¹

REPORT AND RECOMMENDATION OF THE
STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE (SAVA)
TO THE 2013 LEGISLATURE AS OF NOVEMBER 2012²

Proposal No. 3

Proposing Entity: Montana Police Protective Association (MPPA)

Short Title: Revising the Definition of "Compensation" in MPORS

Retirement system(s) affected

Municipal Police Officers' Retirement System (MPORS)

Proposal summary

This proposal would revise the definition of "compensation" for all members in MPORS so that the following types of compensation will be included in the calculation of retirement benefits:

- overtime pay;
- holiday pay;
- shift differential pay;
- compensatory time pay; and
- payments in lieu of sick and annual leave.

Fiscal implications

A specific actuarial study was done on this proposal. This study is attached for reference. In general, because the amount of compensation on which contributions are made is increased, employee, employer, and state contributions to the trust fund also increase. The net result is that the actuary expects that an additional 0.9% of payroll will be available to pay down the system's unfunded liabilities and will reduce the amortization schedule from 25 years to 22.4 years based on the system's FY 2011 actuarial valuation. However, the actuarial study also shows that the funded ratio of the plan will decrease from 55.23% to 51.95% due to the fact that the change will apply to past service and will thus add about \$25.3 million to the system's unfunded actuarial liabilities.

Effect on other Montana retirement systems

Under current law, MPORS and FURS are the only two public safety retirement systems that do

¹ This report summarizes SAVA's recommendation to the Legislature as of November 2012. The report is not a summary of a bill, but of a retirement proposal as presented to SAVA during the interim. The specifics of the proposal summarized may have changed during the subsequent drafting and legislative processes.

² Report issued pursuant to 5-5-228, MCA.

not include the types of pay listed above in the definition of "compensation". If this proposal is enacted, FURS will be the only system remaining that excludes this pay from "compensation" and the legislature can expect that FURS members will also seek parity.

Soundness as matter of retirement policy

This proposal meets the following policy guideline adopted by SAVA:

- Guideline U - The legislature should strive to ensure that retirement benefit formulas in the public safety retirement plans are similar.

Because this proposal creates an unfunded liability for past service, it does not meet the following policy principle adopted by SAVA:

- Principle II - Pension funding should be a contemporary obligation.

The legislature should be cautious of including compensation types that may allow "salary spiking", or the inordinate increase in compensation just prior to retirement. However, the danger of "salary spiking" is more keen when compensation is averaged over a very short period of time, such as 12 or fewer months. In MPORS, FURS, and HWPORS, highest compensation is averaged over 3 years. In SRS and GWPORS, the average was recently increased from 3 years to 5 years for members hired after July 1, 2011, which typically results in a lower benefit.

The following table summarizes the features of Montana's public safety retirement systems relevant to this proposal:

System	Compensation includes/excludes overtime, holiday, shift, comp, and in lieu of sick or vacation pay	Period for Highest Average Compensation Calculation	Social Security Coverage
MPORS	Excludes	3 years	No
FURS	Excludes	3 years	No
SRS	Includes	5 years	Yes
HWPORS	Includes	3 years	No
GWPORS	Includes	5 years	Yes

Comparison with other states

A comparison of how other state laws define "compensation" in their public safety retirement systems was not readily available.

Legal implications³

This proposal does not raise any legal or contract impairment concerns.

Testimony received

The proposal was presented by Mark Murphy on behalf of MPPA. Mr. Murphy testified that the MPORS is actuarially sound and that, according to an actuarial study commissioned by MPPA and provided to the committee, the proposal would actually improve the soundness of the system. He stated that MPPA believes the proposal will increase the average benefit by \$100 a year and that it is funded within the current employer and employee contribution rates. Mr. Murphy also said that the proposal would make MPORS similar to SRS, GWPORS, and HPORS and noted that MPORS members are not covered by social security. He said that the proposal would help with recruitment and retention of qualified officers by allowing the officers to receive retirement credit for all the compensation paid to them. Mr. Murphy talked about the state contribution rate provided to MPORS, which originally was paid from insurance premium taxes. He said this funding source was adequate to pay any additional costs associated with the proposal.⁴

Melanie Symons, chief legal counsel for MPERA, said that the PERS Board's legislative committee did support the proposal in concept, but noted that the Board's legislative committee would want to take a look at the FY 2012 actuarial valuation to be assured that the most current fiscal picture continued to show the sufficiency of funding for MPORS. Ms. Symons also noted that for those members nearing retirement, their final average compensation would seem to "spike" because of the inclusion of these additional types of compensation in their benefit calculations. But she said that the associated cost of these higher benefits would smooth out over time and that the actuarial study did show the increased contributions to the retirement system would more than cover that cost.⁵

Ed Cleary, President of Montana State Fireman's Association, testified in support of the proposal. Doug Neail of the highway patrol also testified in support of the proposal. He related that during the tornado that struck Billings on Father's Day the overtime put in by highway

³ David Niss, Legal Memorandums dated May 21, 2012, January 5, 2012, August 14, 2009, August 28, 2009 (Addendum), and February 27, 1998, Montana Legislative Services Division, (406) 444-3064, or visit www.leg.mt.us and contact staff for the State Administration and Veterans' Affairs Interim Committee.

⁴ State Administration and Veterans' Affairs Interim Committee meeting on August 8, 2012. Audio/video and summary minutes available from the Montana Legislative Branch website at <http://www.leg.mt.gov>.

⁵ Ibid.

patrol officers who directed traffic counted toward compensation for retirement while the overtime put in by all of the police officers who had to climb through the Metra Center, which had been hit, and through all the rubble and who were more in harm's way than the highway patrol officers did not count for their retirement. He said it isn't spiking when law enforcement is called out to handle emergencies or disasters, it is a fairness issue.⁶

There were no opponents.

Committee discussion and recommendations

There were no questions from the committee.

⁶ Ibid.