

HOUSE BILL NO. 413

INTRODUCED BY FABREGA, TROPILA, GILLIGAN, ROSENTHAL, MOORE,  
HEMSTAD, MEYER, REICHERT, PISTORIA, O'CONNELL

IN THE HOUSE

January 26, 1979	Introduced and referred to Committee on Judiciary.
January 31, 1979	Committee recommend bill do pass as amended. Report adopted.
February 1, 1979	Printed and placed on members' desks.
February 2, 1979	Second reading, do pass.
February 3, 1979	Considered correctly engrossed.
February 5, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 8, 1979	Fiscal note requested.
February 15, 1979	Fiscal note returned.
March 2, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 5, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 9, 1979

Returned from second house.  
Concurred in as amended.

March 14, 1979

Second reading, amendments  
adopted.

March 15, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 413  
 2 INTRODUCED BY James Triplett Gilligan John  
 3 Donald Meyer Robert Hastings  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PUT COMPENSATION FOR  
 5 LOSS OF SALARY FOR INJURED OFFICERS UNDER WORKERS'  
 6 COMPENSATION; MANDATING A MUNICIPALITY TO PAY THE DIFFERENCE  
 7 BETWEEN THE OFFICER'S FULL SALARY AND THE AMOUNT PAID BY  
 8 WORKERS' COMPENSATION; AMENDING SECTIONS 7-32-4132,  
 9 7-32-4135, AND 7-32-4136, MCA; REPEALING SECTIONS 7-32-4133  
 10 AND 7-32-4134, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 7-32-4132, MCA, is amended to read:  
 14 "7-32-4132. Continuation Payment of partial salary  
 15 amount of officer injured in performance of duty. A member  
 16 of a municipal law enforcement agency of a first- or  
 17 second-class municipality who is injured in the performance  
 18 of his duties so as to necessitate medical or other remedial  
 19 treatment and render him unable to perform his duties shall  
 20 be paid by the municipality by which he is employed the full  
 21 amount-of-his-regular-salary-less-any-amount-he-may-receive  
 22 difference between his full salary and the amount he  
 23 receives from workers' compensation until his disability  
 24 has ceased, as determined by workers' compensation, or for a  
 25 period not to exceed 1 year, whichever shall first occur."

1 Section 2. Section 7-32-4135, MCA, is amended to read:  
 2 "7-32-4135. Discontinuation of salary when retirement  
 3 allowance granted. Payment of a regular partial salary  
 4 amount under 7-32-4132 shall be discontinued if the officer  
 5 is disabled for an undetermined duration and is granted a  
 6 disability retirement allowance under Title 19, chapters 9  
 7 and 10. If an application for such a retirement allowance is  
 8 not made by the officer, application therefor may be made by  
 9 the chief executive officer of the municipality by which  
 10 such officer is employed."

11 Section 3. Section 7-32-4136, MCA, is amended to read:  
 12 "7-32-4136. Assignment to light duty or another  
 13 agency. (1) Whenever, in the opinion of the municipality,  
 14 supported by a physician's opinion, the officer is able to  
 15 perform specified types of light police duty, payment of his  
 16 regular partial salary amount under 7-32-4132 shall be  
 17 discontinued if he refuses to perform such light police duty  
 18 when it is available and offered to him. Such light duty  
 19 shall be consistent with the officer's status as a law  
 20 enforcement officer.

21 (2) With his consent, the officer may be transferred  
 22 to another department or agency within the municipality."

23 Section 4. Repealer. Sections 7-32-4133 and 7-32-4134,  
 24 MCA, are repealed.

-End-

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*House*  
 INTRODUCED BILL

## STATE OF MONTANA

Request No. 300-79

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 1979, there is hereby submitted a Fiscal Note for House Bill 413 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION OF PROPOSED LEGISLATION:

An act to put compensation for loss of salary for injured officers under Workers' Compensation; mandating a municipality to pay the difference between the officer's full salary and the amount paid by Worker's Compensation and clarifying the meaning of monthly compensation for purposes of the statewide police retirement system.

## ASSUMPTIONS:

1. Reported accidents involving municipal law enforcement personnel will remain at the same level as reported in FY 1977.
2. The applicable state average weekly wage will increase 10% in FY 1980 and 9% in FY 1981.

## FISCAL IMPACT:

Under the proposed legislation, additional compensation benefits must be paid -- \$21,000 in FY 1980; \$22,900 in FY 1981.

## LOCAL IMPACT:

The impact will be insignificant.

Richard Z. Tracy Jr.  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 4/15/77

Approved by Committee  
on Judiciary

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22                   treatment and render him unable to perform his duties shall

23                   be paid by the municipality by which he is employed the full

24                   amount-of-his-regular-salary--less-any-amount-he-may-receive

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22 shall be consistent with the officer's status as a law  
23 enforcement officer.

24 (2) With his consent, the officer may be transferred  
25 to another department or agency within the municipality."

1        SECTION 4. SECTION 19-9-104, MCA, IS AMENDED TO READ:

2        "19-9-104. Definitions. Unless the context requires  
3 otherwise, the following definitions apply in this chapter:

4        (1) "Administrator" means the public employees'  
5 retirement division of the department of administration.

6        (2) "Board" means the retirement board described in  
7 2-15-1009.

8        (3) "Credited service" means the aggregate of a  
9 member's prior service and membership service.

10       (4) "Employer" means any city which participated in a  
11 prior plan or which elects to join this plan under 19-9-107.

12       (5) "Employer annuity" means monthly payments for life  
13 derived from employer and state contributions.

14       (6) "Final average salary" means the monthly  
15 compensation of a member, averaged over the last 36 months  
16 of his active service or, in the event he has not been a  
17 member that long, over the period of his membership.

18       (7) "Fund" means the agency account in the treasury  
19 system designated for the use of the plan.

20       (8) "Mandatory retirement date" means the first day of  
21 the month coinciding with or immediately following, if none  
22 coincides, the date on which a member attains age 65.

23       (9) "Member" means a person who is employed by an  
24 employer as a police officer or who is entitled to a  
25 retirement allowance by virtue of his service to an employer

1        as a police officer.

2        (10) "Member contributions" means the total of the  
3 deductions from the compensation of a member, either made  
4 during a period of active membership hereunder or made under  
5 a prior plan and transferred to this plan, standing to his  
6 credit, together with the interest thereon.

7        (11) "Member's annuity" means monthly payments for life  
8 derived from member contributions.

9        (12) "Membership service" means a period of employment  
10 with an employer occurring after June 30, 1977, during which  
11 the withholdings required by this chapter have been made  
12 from a member's monthly compensation and credited to his  
13 member contributions account. Pro rata credit shall be  
14 granted for employment on a part-time basis or for  
15 employment over a period of less than a complete fiscal  
16 year.

17       (13) "Minimum retirement date" or "normal retirement  
18 date" means the first day of the month coinciding with or  
19 immediately following, if none coincides, the date on which  
20 a member becomes both age 50 or older and completes 20 or  
21 more years of credited service.

22       (14) "Monthly compensation" means the wage, excluding  
23 overtime, holiday payments, shift differential payments,  
24 compensation time payments, and payments in lieu of sick  
25 leave and annual leave, a member receives as an active

1 police officer or would receive as an active police officer  
 2 were it not for an injury resulting in partial salary  
 3 payments under 7-32-4132.

4 (15) Any reference to "municipality", "city", or "town"  
 5 includes those jurisdictions which, prior to the effective  
 6 date of a county-municipal consolidation, were incorporated  
 7 municipalities, subsequent districts created for urban law  
 8 enforcement services, or the entire county included in the  
 9 county-municipal consolidation.

10 (16) "Plan" means the municipal police officers'  
 11 retirement system created by this chapter.

12 (17) "Police officer" means a law enforcement officer  
 13 employed by an employer.

14 (18) "Prior plan" means the local police reserve or  
 15 retirement fund of a city which elects to join the plan  
 16 under 19-9-107 or the statewide police reserve fund  
 17 administered by the department of administration in  
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 20 police officer for which credit was granted to a member  
 21 under a prior plan and has been transferred to this plan.

22 (20) "Retirement allowance" means the employer annuity  
 23 plus the member's annuity.

24 (21) "Retirement date" means the date on which the  
 25 first payment of the retirement, disability, or survivor

1 benefits of a member or a beneficiary is payable.  
 2 (22) "Totally and permanently disabled" means that the  
 3 board, upon certification by a licensed and practicing  
 4 physician, has determined that a member's disability is of  
 5 such a nature as to permanently impair his ability to  
 6 discharge his normal duties as a police officer."

7 Section 5. Repealer. Sections 7-32-4133 and 7-32-4134,  
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-End-

Approved by Committee  
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1        **SECTION 42 - SECTION 19-9-104x - MEA x 19 - AMENDED TO READ**  
 2        "19-9-104x - Definitions --- Unless -- the context requires  
 3        otherwise -- the following definitions apply in this chapter:  
 4        (1) -- "Administrator" -- means -- the public employees'  
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 6        (2) -- "Board" -- means the retirement board described in  
 7        2-15-2009;  
 8        (3) -- "Credited service" -- means the aggregate of a  
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 17       (13) -- "Minimum retirement date" -- or "normal retirement  
 18       date" -- means the first day of the month coinciding with or  
 19       immediately following, if none coincides, the date on which  
 20       a member becomes both age 50 or older and completes 20 or  
 21       more years of credited service;  
 22       (14) -- "Monthly compensation" -- means the wages excluding  
 23       overtime, holiday, payments, shift differential payments,  
 24       compensation time payments, and payments in lieu of sick  
 25       leave and annual leave, a member receives as an active

1 police--officer or--would--receive--as--an--active--police--officer  
 2 were--it--not--for--an--injury--resulting--in--partial--safety  
 3 payments--under--§--32--4132.  
 4       (f5)--Any--reference--to--"municipality"--v--"city"--v--or--"town"  
 5 includes--those--jurisdictions--which--prior--to--the--effective  
 6 date--of--a--county--municipal--consolidation--were--incorporated  
 7 municipalities--subsequent--districts--created--for--urban--law  
 8 enforcement--services--or--the--entire--county--included--in--the  
 9 county--municipal--consolidations.  
 10       (f6)--"Plan"--means--the--municipal--police--officers'  
 11 retirement--system--created--by--this--chapter.  
 12       (f7)--"Police--officer"--means--a--law--enforcement--officer  
 13 employed--by--an--employer.  
 14       (f8)--"Prior--plan"--means--the--local--police--reserve--or  
 15 retirement--fund--of--a--city--which--elects--to--join--the--plan  
 16 under--19-9-107--or--the--statewide--police--reserve--fund  
 17 administered--by--the--department--of--administration--in  
 18 accordance--with--Chapter--335v--laws--of--1974.  
 19       (f9)--"Prior--service"--means--a--period--of--employment--as--a  
 20 police--officer--for--which--credit--was--granted--to--a--member  
 21 under--a--prior--plan--and--has--been--transferred--to--this--plan.  
 22       (f20)--"Retirement--allowance"--means--the--employer--annuity  
 23 plus--the--member's--annuity.  
 24       (f21)--"Retirement--date"--means--the--date--on--which--the  
 25 first--payment--of--the--retirement--disability--or--survivor

1       benefits--of--a--member--or--a--beneficiary--is--payable.  
 2       (f22)--"Totally--and--permanently--disabled"--means--that--the  
 3 board--upon--certification--by--a--licensed--and--practicing  
 4 physician--has--determined--that--a--member's--disability--is--of  
 5 such--a--nature--as--to--permanently--impair--his--ability--to  
 6 discharge--his--normal--duties--as--a--police--officer."

7       **SECTION 4.** THERE IS A NEW MCA SECTION THAT READS:

8       Contributions. (1) When an officer receives  
 9 compensation under [section 1] the member contributions for  
 10 retirement required under 19-9-601 will be paid on the total  
 11 compensation received under [section 1] and the employer  
 12 contribution paid by the municipalities under 19-9-703 and  
 13 the state contribution under 19-9-702 shall include as part  
 14 of the salaries paid to police officers all compensation  
 15 received under [section 1]. The service represented by these  
 16 contributions will be credited in the same manner as  
 17 provided in 19-9-401.

18       (2) When an injured officer accepts a transfer under  
 19 [section 3] to a nonpolice position within the municipality  
 20 covered under 19-3-401, all service and contributions  
 21 previously credited with the municipal police officers'  
 22 retirement system shall be transferred from the municipal  
 23 police officers' retirement system retirement account in the  
 24 agency fund along with the interest to the public employees'  
 25 retirement system agency fund. The employer contributions

1 and interest transferred will be equal to the amount that  
2 would have been contributed had the transferred service been  
3 normal employment covered under the public employees'  
4 retirement system.

5       Section 5. Repealer. Sections 7-32-4133 and 7-32-4134,  
6 MCA, are repealed.

-End-

March 2, 1979

SENATE STANDING COMMITTEE REPORT  
(Labor & Employment Relations)

That House Bill No. 413 be amended as follows:

1. Title, line 11.

Following: "7-32-4135,"  
Insert: "AND"

2. Title, line 12.

Following: "7-32-4136,"  
Strike: "AND 19-9-104,"

3. Page 3, line 1 through line 6 on page 6.

Strike: Section 4 in its entirety

Insert: "Section 4. THERE IS A NEW MCA SECTION THAT READS: Contributions. (1) When an officer receives compensation under [Section 1] the member contributions for retirement required under 19-9-601 will be paid on the total compensation received under [Section 1] and the employer contribution paid by the municipalities under 19-9-703 and the state contribution under 19-9-702 shall include as part of the salaries paid to police officers all compensation received under [Section 1].

The service represented by these contributions will be credited in the same manner as provided in 19-9-401.

(2) When an injured officer accepts a transfer under [Section 3] to a non-police position within the municipality covered under 19-3-401, all service and contributions previously credited with the municipal police officers' retirement system shall be transferred from the municipal police officers' retirement system retirement account in the agency fund along with the interest to the public employees' retirement system agency fund. The employer contributions and interest transferred will be equal to the amount that would have been contributed had the transferred service been normal employment covered under the public employees' retirement system."