



ADMINISTRATIVE RULES OF MONTANA

2.43.2315 CREDIT FOR SERVICE IN THE UNIFORMED SERVICES

- (1) If an actively employed member of PERS, JRS, HPORS, SRS, GWPORS, MPORS, or FURS is called to duty for a period or periods of service in the uniformed services, the member receives membership service for that time and may receive service credit within the member's retirement system, provided the member:
 - (a) remains a member of the retirement system during the period of service in the uniformed services by leaving his or her accumulated contributions on deposit;
 - (b) complies with the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994, commonly known as USERRA or the Montana Military Service Employment Rights Act (MMSERA);
 - (c) complies with all Code of Federal Regulations implementing USERRA or all administrative rules implementing MMSERA; and
 - (d) is reemployed pursuant to USERRA or MMSERA.
- (2) The member must complete payment of the member's contributions for the uniformed services related absence within three times the period of the member's uniformed service, starting upon return to employment, but not to exceed five years.
- (3) The member may pay the employee contributions:
 - (a) on a pretax basis pursuant to 19-2-704, MCA;
 - (b) in a lump sum, including a direct transfer from an eligible retirement plan or individual retirement account;
 - (c) through installments on a posttax basis; or
 - (d) any combination of (3)(a), (b), and (c).
- (4) If the member pays the employee's contributions, the member's employer must pay the employer's contributions. Employer contributions may be due from the member's local government employer and the state.
- (5) The member's, the employer's, and the state's contributions are determined based on the compensation the member would have received had the member not been called to uniformed services duty. No interest is charged on their respective contributions.
- (6) A member making contributions under a service purchase contract at the time he or she is called to service in the uniformed services will have their payments suspended by MPERA until return to employment as required under USERRA or MMSERA.

- (7) For purposes of this rule, service in the uniformed services is any service covered by USERRA or by MMSERA, including:
 - (a) service in the Army, Navy, Marine Corps, Air Force, Coast Guard, or Public Health Service Commissioned Corps;
 - (b) service in the reserve components of each of the services listed in (7)(a);
 - (c) service in the Army National Guard or the Air National Guard; and
 - (d) service in the Montana National Guard.
- (8) For purposes of this rule, service includes:
 - (a) active duty;
 - (b) active duty for training;
 - (c) inactive duty for training;
 - (d) initial active duty training; and
 - (e) any period of time during which a member is absent from employment for the purpose of an examination to determine fitness to perform any of the above-listed duties.
- (9) If the member dies while engaged in USERRA or MMSERA service, the balance of the service credit remaining to be purchased may be made from the member's estate, subject to the limitations of section 415 of the Internal Revenue Code.
- (10) Regardless any provisions of state law to the contrary, the board will administer this rule in accordance with USERRA, and the federal department of labor regulations regarding USERRA.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-704, 19-2-707, MCA

History: NEW, 1986 MAR p. 1454, Eff. 8/29/86; AMD, 2004 MAR p. 561, Eff. 3/12/04; AMD & TRANS, from ARM 2.43.421, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2020 MAR p. 391, Eff. 2/29/20.