MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **REP. JAN BROWN, CHAIR,** on July 14, 1992, at 9:00 A.M.

ROLL CALL

Members Present:
- Jan Brown, Chair (D)
- Vicki Cocchiarella, Vice-Chair (D)
- Beverly Barnhart (D)
- Gary Beck (D)
- Ernest Bergsagel (R)
- Fred "Fritz" Daily (D)
- Ervin Davis (D)
- Jane DeBruycker (D)
- Roger DeBruycker (R)
- Gary Feland (R)
- Gary Forrester (D)
- Patrick Galvin (D)
- Harriet Hayne (R)
- Betty Lou Kasten (R)
- John Phillips (R)
- Richard Simpkins (R)
- Jim Southworth (D)
- Wilbur Spring (R)
- Carolyn Squires (D)

Staff Present: Jo Lahti, Committee Secretary
David Niss, Legislative Council

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: **REP. JAN BROWN, CHAIR,** announced HB 40 and HB 56 would be heard.

HEARING ON HB 40

Presentation and Opening Statement by Sponsor:

REP. VICKI COCCHIARELLA, HD 40, Missoula, said this bill is presented at a time budgets must be cut. It is an Act allowing certain members of the Public Employees' Retirement System to retire with 25 years of service without penalty, instead of 30 years, during a 6-month period beginning October 1, 1992. Hopefully, by allowing certain PERS members to retire early there will be some savings by replacing a more senior employee with a less senior, less expensive employee. It is an option, and in the end she will ask the bill be Tabled, but the arguments on both sides should be heard, then the bill be left on the table in Committee for another day when it may need to be resurrected.

<u>**Proponents' Testimony:**</u>

Tom Schneider, Executive Director, Montana Public Employees Association, said a great deal of time has been spent discussing this workforce retirement issue. **EXHIBIT 1** HB 40 allows for a period of six months for any employee who has 25 years of service in PERS to retire without having to be assessed the 6% per year penalty for early retirement which is assessed to a person who wants to retire with more than 25 years and less than 30 years of service. In addition, it will allow people who are age 50 and have over 20 years of service to buy years of service to reach 25 and then retire if qualified under the other provisions of the Act. There are approximately 345 people who have 25 years of service today who could retire without having to buy additional service. A total of 900 people covered by this bill would all have to purchase years to retire.

It is a simple bill. It is here solely because it is felt there has to be an option to laying people off. It would be better to retire people and have them leave employment drawing a retirement check rather than laying them off and have them going on unemployment, which would reduce their standard of living and put them on one of the other state trust funds. There probably will not be any savings up front because of the vacation and sick leave payoff to the people with 25 years service. That will be substantial.

Attached to the back of **EXHIBIT 1** is a copy of the Bureau of National Affairs report showing what some states have done to reduce their workforce by having people draw retirement rather than unemployment.

This bill doesn't go far enough. It does not provide an incentive to retire. It simply removes the penalty for retiring. He feels a maximum of 60 people would draw retirement under HB 40. Some other type of incentive would have to be provided, such as health insurance, because the biggest single deterrent to retirement today is the cost of health insurance. The bill has a lot of merit. This is no different than granting a benefit enhancement to all the people who are currently working and those currently retired who will never pay for the enhancement. We have a history of granting benefits to people that they don't pay for. That is the way retirement systems work.

Something needs to be done to lay people off in the best fashion possible, and this concept is able to do that, can do it, and could even go further if it is necessary to look at covering more people.

John Marlee, Montana Federation of Teachers, wanted to go on record supporting HB 40.

Opponents' Testimony:

Terry Teichrow, Chairman of the Public Employees Retirement Board, said the consensus of the entire Board is that the policy for the last two years is that no legislation would be supported that affects the trust fund, and especially if it is not funded. The current six-member board is strongly opposed to HB 40. It affects a small number of people, but if everybody took advantage it could involve 900 people. They don't think everybody will take advantage. Other states have had 20% of those eligible take advantage of their incentives. That would be 180 people here.

No funds are made available to keep the fund whole. Their fiduciary responsibility as a Board is to maintain that fund to the best interests of those beneficiaries, the retirees, and even the current employees who eventually will take advantage of it. It would cost about $6.2 Million. That is too much. Even though the unfunded liability is higher than that, they don't buy into this because they don't want to increase it any more. There is no funding to that amount in this bill.

It is a raid whether it is borrowed money, or whatever form, that needs to be put into the fund if a benefit like this is to be given to a certain few employees. This may not save a few dollars in the beginning, maybe only a few in the long run. In 1991 state employees and unions were looking for a pay plan. Part of the arguments used at that time is that Montana is having trouble keeping good employees in state government. They need to be better paid. Agencies are having to advertise jobs in their publications at higher than their normal rates of pay to get good people. He doesn't think all these employees are going to be replaced just with lower paid employees. That hasn't changed. He asked HB 40 not be passed.

Mark A. Cress, Acting Administrator, Public Employees' Retirement Division, stated the Board is opposed to HB 40. **EXHIBIT 2.** The Board has the responsibility of administering the Retirement System, and are trustees over the Retirement Trust funds. This bill has a negative impact on costs and on the general fund and a significant drain on pension funds. That money belongs to all members of the retirement system. There are about 40,000 people who have some stake in this fund. PERD is concerned about the inequity of this bill. Persons retiring under HB 40 would not suffer the reduction previous retirees have, which results in a permanent reduction in their monthly retirement benefits of up to 30%. The same would happen to an employee retiring after March 31, 1993.

A retirement board has met several times, taken public testimony from many people and tried to identify major areas of concern with the retirement system. Early retirement is not a major area of concern, as is the lack of an consistent structured cost-of-living adjustment for all retirees. The Board urged consideration be given to a cost-of-living mechanism that would benefit all retirees.

The Board urged a Do Not Pass vote on HB 40.

Linda King, Assistant Administrator, Public Employees Retirement Division, has done research on early retirement options, the potential for cost savings they represent, experiences of other states, work on fiscal analysis and preparation of fiscal notes for HB 40. She handed out **EXHIBIT 3, "A Study of the Early Retirement Act of 1982"** and **EXHIBIT 4 "Early Retirement Incentives in the Public Sector: Why Early Retirement Windows don't Cut Government Expenses".** HB 40 will not help government employers to balance the FY 93 budget. It will add over $1.9 million in personnel costs with a net general fund impact, including the salary savings, around $259,000 for a three-months period. Why don't early retirement windows cut expenses? There are some big differences between public agencies and private business. See **EXHIBIT 4**.

EXHIBIT 3 points out similarities of the windows the State of Washington offered and Montana's proposed window, the kinds of people covered, the number being looked at. Some of the things found were that most of the agencies were completely unprepared for the consequences of early retirement of key employees in terms of their organization for current operations. They had different effects among the different agencies.

Some positive effects were found. They did avoid additional layoffs in certain agencies. Some agencies able to reorganize became more efficient. Some substantial opportunities were available in some agencies. Some found they could get along with less staff. They learned the need for better internal training and development so when these kinds of things happen again, they aren't so unprepared. They recommend a comprehensive front end analysis of the potential of unanticipated early retirement and early retirement proposals to continue.

If this Legislature is interested in doing something like this, the costs upfront are not going to be a savings this biennium. It should be looked at very, very carefully.

__Questions from the Committee Members:__

REP. DAILY asked **Mr. Teichrow** if an amendment were placed in HB 40 that provided for a freeze on positions that were vacated because of this proposal, would he support this? **Mr. Teichrow** answered No. The funding you are going to attempt to save is a function of budgeting. Their responsibility is to the fund through state law. The fiduciary responsibility they have to take $6.2 million out of there would not allow that to be done. They are opposed to that because of the cost and the benefit to such a small number of people.

REP. BERGSAGEL asked **Ms. King** if there would be any cost savings if there were a hiring freeze. She explained there would be no cost savings this biennium with a hiring freeze. There would possibly be a long term savings, but you cannot select the people to whom the window is being offered, and the large majority of those people who can take advantage are, in fact, not employees of general fund agencies, otherwise the hit would be harder.

REP. PHILLIPS asked **Mr. Teichrow** if the Board would support this if the fund is given $6.2 million to cover the cost of this benefit. **Mr. Teichrow** said the Board had not discussed such action. They discussed this as being unfunded. So they did not want to support it. If it were funded, the Board would possibly be able to support it, but they have not discussed it with funding as an option. Even if they eliminated this position, regardless of what they do in the budget aspect of it, the cost is still the same to the corpus of the fund unless the money is given to compensate for it.

Closing by Sponsor:

REP. COCCHIARELLA thanked the Committee for hearing HB 40, and asked them to Table it.

EXECUTIVE ACTION ON HB 40

Motion: **REP. SQUIRES MOVED HB 40 BE TABLED.**

Amendments, Discussion, and Votes:

REP. DAILY asked for time to discuss a proposed amendment for a hiring freeze on positions that are vacated through the 1995 biennium as a result of this bill. He would like to pursue such an amendment. **REP. PHILLIPS** said other attempts to enact a hiring freeze have not been successful. Private industry doesn't freeze positions, they abolish positions. That is where some long term savings are achieved.

CHAIRMAN BROWN said Executive Action would be withheld until HB 56 had been heard.

HEARING ON HB 56

Presentation and Opening Statement by Sponsor:

REP. VICKI COCCHIARELLA, HD 59, Missoula, said HB 56 tries to abolish jobs to create savings in state government and to increase efficiency and eliminate duplication. It is an Act eliminating various bureaus, programs, and positions within the Department of Administration; transfers certain programs within that Department to the Department of Labor and Industry and to the office of the Budget Director; amends rules and sections, and provides effective dates. These are services not provided to our citizens but which are provided to other levels of state government. Therefore, the impact is not so much on the citizens but the impact is on the agencies.

The cuts designed in this bill abolish positions and services provided to state governments. This is an intelligent, rational, and well thought out way to reduce spending by making cuts to the base which will continue forward and provide efficient services for the State of Montana. It forces agencies to take on responsibilities which they have pushed up to the personnel division in the Department of Administration. This bill eliminates the Bureau of Labor Relations, removes the chief labor negotiator, and puts that position in the Office of Budget and Planning where it seems to belong. HB 56 moves the Market Survey that is now in the personnel division to the Labor Department where they are already doing one kind of market survey which is much more extensive and goes beyond state boundaries. Also it asks a one-half FTE be moved to enable them to afford to be able to do that. Right now the market survey is paid for by utilized administration tax.

This bill also eliminates step three of the classification appeal process. Any burden on the Board of Appeals should be at the agency level. The agencies and state employees at this point seem to circumvent or not do their jobs by taking on that responsibility and pass it on to this other level of bureaucracy to determine. At this point in time the Board has 10 days to review whether or not it will accept an appeal. That argument in itself can give the Board the power to eliminate the cases they will not hear. The argument about taking on an additional burden doesn't stand. The people supporting this are people who can't be here to testify. They are those who are threatened and intimidated by some of the things that may happen to them if they reveal how they feel about duplication in the bureaucracy.

Proponents: None

Opponents:

Laurie Ekanger, Administrator State Personnel Division, DOA, opposes HB 56. This is the most sweeping reorganization of the state's personnel functions since the executive reorganization. **EXHIBIT 5** Prior to 1972 reorganization a couple of bills were passed, the Classification Pay Act, and the Collective Bargaining Act. This bill specifically consolidates personnel duties, and eliminates all the transferred duties that are targeted here, but it doesn't repeal the law. It leaves the Act on the books and it creates the illusion there is still a single state personnel division. That sets it up for litigation and removes the resources needed to comply with these laws. Other states have consolidated their personnel functions under various heads.

There are four major programs this bill affects. They are outlined and explained in **EXHIBIT 5. Ms. Ekanger** asked this bill receive a Do Not Pass recommendation.

Mike Micone, Commissioner of the Department of Labor and Industry (DLI), said he agrees philosophically with what the sponsor is trying to do. He has been an advocate of flexibility in departments. His main problem with HB 56 is the cost factor. The bill transfers to the Department responsibilities for a salary survey. There are over 1300 classifications in Montana. Not sufficient money has been allocated to survey those properly. The hearings process for the DLI is a major effort HB 56 will pass from the DOA to the DLI. There are a number of cases that are presently to be resolved at Step 3. Philosophically that is where he has problems with this bill. The resolution at a lower level before a case gets to the Board or hearing process is not only more beneficial to the state but is also more beneficial to the plaintiff. That is in the Unemployment Insurance Division and also the Workers' Compensation. The Legislature has put mediation in Workers' Compensation and the statistics show that it is 60-70% successful in the resolution of cases. That is also true with unemployment insurance, so that is the problem with removing Step 3 in the process.

On a quick analysis of the bill, they believe it will probably triple the number of hearings that come before the Department. They lack resources to do that particular job. It will take additional time and cost with the Board of Personnel Appeals. They don't know about the administration of the pay plan. They really don't know where that would fit in the DLI. HB 56 tries to coordinate three different departments to handle this job - Department of Labor, the Department of Administration and also the Office of Budget and Program Planning. Just within the DLI, as their department is structured today, they would have those functions as they see them spread between three divisions so that their hearings division would handle hearings questions, the survey work would be done in their research division, and the administration of the pay plan might be done in their public relations division. There would be a coordination problem under their present structure.

Their main problem with the bill is the resources that go with it. This is not a money saving measure. Any way to provide flexibility and get problems resolved at the lowest level is a benefit to all. He urged defeat of the bill.

Questions from Committee Members:

REP. KASTEN asked if there were a fiscal note. **REP. COCCHIARELLA** said there was no fiscal note. This bill saves $113,009 in general funds, and a savings of $208,843 to the proprietary fund which goes back to the agency. This saves the state that much money according to figures received from the LFA.

REP. SIMPKINS asked if LFA was making assumptions that much would be saved by the elimination of the position rather than consultation with other divisions as to whether they had to hire people to take care of these newly transferred functions. **REP. COCCHIARELLA** explained the LFA analyzed the bill and costs in the bill. Funds were transferred to the DLI, one-half of an FTE for the purpose of the pay plan study. A full FTE was transferred at the grade level of the chief labor negotiator to the OBPP and this is the resultant savings. Those agencies are receiving funds from HB 56.

REP. SIMPKINS said positions have been eliminated. Where does the information come from that this function could be done in another department without the FTE transfer. **REP. COCCHIARELLA** said the cuts to government proposed in HB 56 are part of the budget cutting process. She has transferred what she has determined to be sufficient funding to those agencies, and if those other agencies need to absorb these costs, that is part of the budget cutting process.

REP. JANE DEBRUYCKER asked where money for professional training would come from. **REP. COCCHIARELLA** explained the money comes from other agencies who contract with the Department to put on those workshops, so it is proprietary funds in the amount of $208,843. That money comes back to support that function in the Department. That function will disappear in that agency. The agency spending that money can continue to hire and consult to put on training for their agencies if they choose to do so. She would like to see evidence that it would be done at a higher cost, as previously mentioned. Some research should be done to prove that the cost in the private sector is more than government costs.

REP. JANE DEBRUYCKER asked if the proprietary funds are still not general fund money set aside for these appropriations. **REP. COCCHIARELLA** said it depends on what the agency's funding is. Most agencies who have their own funding sources and can afford to have these training functions are the ones who make the contracts more frequently, so some agencies can't afford to do it and they don't. It is a management decision.

REP. SIMPKINS asked if it is being suggested that management of the current training programs be privatized. **REP. COCCHIARELLA** suggested that function be done away with in state government.

REP. SIMPKINS asked if he utilized this training system for his managers. **Mr. Micone** said the DLI uses a variety of resources for training, including professional development centers. They also have their own trainers, and do use outside resources.

REP. SIMPKINS asked if he could assume that if you were to eliminate these positions, you might contract out more of your services for training than you presently do. **Mr. Micone** said they would either contract out more of their services or utilize their in-house trainers to a greater degree.

REP. SIMPKINS understood there is a fiscal note being prepared on this particular bill. **Mr. Micone** advised the Department is in the process of preparing a fiscal note they received about 4:00 p.m. yesterday. That will be ready for the Committee this afternoon.

Closing by Sponsor:

REP. COCCHIARELLA closed saying the issue here is duplication in government. We are hiring personnel people, department administrators and heads of agencies who should be qualified to perform these functions. They are people with college degrees, they have the background and are the ones who are managing and directing the operation in the agency. Managers say they are frustrated by legislative interference in what they are doing. The historical perspective is that the Legislature has created another level of bureaucracy to make sure we can keep all of those managers in line and doing their work. State government needs to be responsible in not only whom they hire in the grade six and sevens positions,. but whom they put in the management positions. Most of the managers or directors she has spoken with have made the complaint they want to be able to manage their agencies and wish the Legislature would stay out of their business. In that respect, when managers and directors and department heads are hired, if they are not qualified to perform the personnel function, they shouldn't be there. Those people should be able to perform those functions and that is what this does. It pushes those functions back down to the managerial level, and removes a level of bureaucracy.

Another point **Commissioner Micone** referred to was they do not know how the pay plan is going to be administered. HB 56 does not remove the function of maintaining the classification system or the rules. Those rules and the administration of the pay plan all remain in the department. They are not moved and scattered. The reason the pay survey is moved to the DLI is to create integrity and validity for that study. When it comes back it is put with the personnel division in the pay arena along with the administration or development of rules for pay. That way makes more sense because negotiation for whatever bargaining is to be done will have been done in separate arenas. They can stand on their own and there will be less argument at the bargaining table.

Under the '77 contract **Ms. Ekanger** referred to, the managers in those agencies now are most of the time preparing for bargaining, they know the issues, they bring the issues to another level of bureaucracy, discuss them, then sit down together and work on strategy. If an agency doesn't have that function now, they should be doing that. Those contracts are still going to be bargained, there is still a bargaining law in the state, and that will not go away. It will be brought back down to the management level of the agency for their flexibility and approval because they know what is going on in their agency. This level of bureaucracy may know what is going on and probably does by the time they are fed the information.

This is a saving of 6.5 FTEs. It touches the bases of elimination of services to the government for the government. It moves 1.5 FTE with the money to the other department. It saves $113,000 of general fund, a $208,000 savings in proprietary funds to agencies where they can continue to hire professional trainers and developers.

EXECUTIVE ACTION ON HB 40

Motion: **REP. DAILY** moved HB 40 DO PASS.

Amendments, Discussion, and Votes:

REP. DAILY explained HB 40 would allow people to take retirement at 25 years. The amendments he is considering would not allow the positions vacated to be filled until at least through the 1994-95 biennium. That is 4 years down the road. He would exclude the Montana State Prison and the Women's Correctional Facility because there have been serious problems with those facilities and knowledgeable employees need to be kept. Seventy percent of the cuts made in general fund dollars have been in education and in human services. He would like to see at least an equal amount of cuts be made in state government. He can support those cuts if there are cuts throughout the system. So far that hasn't been done. This may be one way to do that. This exact language was placed in HB 2 yesterday and in the Senate Finance & Claims Committee.

Section 1. Requiring a vacancy savings in the 1994-95 biennium when those positions become open when persons retire, except positions at Montana State Prison and the Women's Correctional Facility.
New Section: Vacancy savings required: Positions from which employees retire under Section 1 may not be filled until the end of the 1994-1995 biennium, except for positions at the Montana State Prison and the Women's Correctional Facility.

REP. DAILY moved the amendment as read Do Pass.

Discussion on the Amendment:

REP. DAVIS asked how this affected contracted services for some of these people who do retire by taking advantage of the 25-year window and hire right back under private contract. **REP. DAILY** doesn't think anyone should retire and be hired right back under contracted services.

REP. SIMPKINS asked if the amendment could be worded in such a way as to say only those people considered non-essential can take advantage of this window of opportunity. An essential person should not be offered this opportunity. **REP. DAILY** would not want to do that because every position would be said to be essential.

REP. BERGSAGEL asked if the amendment is the same as what the Senate & Finance Claims adopted. **David Niss, LFA,** stated it was along the same lines, but contained more exceptions. The Senate language says such a position in an agency that is not filled on June 26 may not be filled until fiscal 1993, so it is only freezing positions this fiscal year and having the 53rd Legislature make decisions about the next biennium. **REP. DAILY** would freeze the positions through the end of the next biennium, or be subject to change by the next Legislature. There are four or five exceptions in the Senate Finance & Claims and HB 2 amendments. The University, employees of the next Legislature, the prisons, and several others are excepted.

REP. SQUIRES asked if that dealt with any positions within the other institutions such as Boulder and Warm Springs. Someone with 25 years of service there might not be replaceable, such as psychiatrists, and other skilled people. **Mr. Niss** said in order to do what you are suggesting, it would be necessary to add the Montana State Hospital to the list of exceptions in this amendment, just as some agencies were added to the list of exceptions in Senate Finance & Claims and HB 2. It would be necessary to list the ones on the campus and the hospitals as one of the agencies excepted as well.

REP. SQUIRES made a substitute motion to amend the amendment to include Galen campus, Warm Springs and Boulder positions.

Discussion was had about including other similar facilities. **REP. DAILY** had no problem with including any of the institutions. He wants to cut the people in state government.

REP. BROWN asked the sponsor what her intention to do with HB 40 is. **REP. COCCHIARELLA** explained when she got the numbers from the PERS board and saw the impact to that system, having a commitment to establishing a COLA or a guaranteed cost-of-living increase for retirees, is a higher priority. She asked the bill to be TABLED and not to go any further.

REP. SQUIRES MOVED TO TABLE HB 40 UNAMENDED. Motion carried with REP. DAILY voting No.

EXECUTIVE ACTION ON HB 56

Motion: **REP. DAILY moved HB 56 DO PASS.**

Amendments, Discussion, and Votes:

REP. COCCHIARELLA said it had been brought to her attention there is a problem in the drafting of this bill. She handed out a proposed amendment addressing keeping the administrative aspect of the pay plan in the Personnel Division and not moving it to the DLI. It was never her intention to move it out of the personnel division. That is where it belongs, and this amendment **EXHIBIT 6** leaves it in the personnel division.

REP. SIMPKINS opposes the amendment because it will not help the bill that much. It is impossible to reorganize government in the short period of time this session allows. There is no fiscal note.

Vote on amendment:

Motion carried by a Roll Call vote of 11-8. EXHIBIT 7.

Motion: REP. COCCHIARELLA moved HB 56 AS AMENDED DO PASS.

Discussion:

REP. KASTEN asked if the fiscal note coming out is not the same as what the LFA gave, will that make a difference on the decision made now? **REP. COCCHIARELLA** said because of the amendment, the fiscal note will have to be changed.

REP. KASTEN was granted permission to ask if a fiscal note has been prepared and if there is time for a revision before it is received by the Committee. **Ms. Ekanger** said it would affect their fiscal note a bit because it eliminates whole units of their workforce, but now that it is amended the duties of one of those units remains, which is the administration of the pay plan so that would affect their fiscal note a bit, but they have already turned it in to the budget office. The DLI fiscal note would be dramatically affected. They either have or will have turned theirs in to the budget office. She was unable to answer that question.

REP. BECK said his people back home want efficient government and consolidation and want nonproductive personnel eliminated. People are saying there is too much state government and want some cuts in Helena. A message has to be sent to the bureaucracy so they are aware people are getting serious about the cost of government and want some cuts made. He is in favor of HB 56.

REP. SIMPKINS asked if this bill consolidates or decentralizes services. **REP. BECK** thought it did some consolidating in the DLI. The bill intends to cut duplications and the Legislature has to start to cut somewhere.

REP. PHILLIPS agreed with cutting some places. HB 56 will get rid of all but one contract negotiator. It might save some money in the short run. If that side of the house is eliminated, in the long run it will be more costly. You can't negotiate on one side. It is questionable if it will save any money.

Vote: Motion HB 56 DO PASS AS AMENDED carried 11-8 by Roll Call Vote. EXHIBIT 8.

ADJOURNMENT

Adjournment: Meeting adjourned at 10:30 a.m.

Jan Brown
REP. JAN BROWN, CHAIR

Jo Lahti
Jo Lahti, Secretary

JB/jl

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL DATE July 14, 1992

NAME	PRESENT	ABSENT	EXCUSED
REP. VICKI COCCHIARELLA, VICE-C.	✓		
REP. BEVERLY BARNHART	✓		
REP. GARY BECK	✓		
REP. ERNEST BERGSAGEL	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. JANE DEBRUYCKER	✓		
REP. ROGER DEBRUYCKER	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. PATRICK GALVIN	✓		
REP. HARRIET HAYNE	✓		
REP. BETTY LOU KASTEN	✓		
REP. JOHN PHILLIPS	✓		
REP. RICHARD SIMPKINS	✓		
REP. JIM SOUTHWORTH	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAN BROWN, CHAIR	✓		

TABLED BILL

STATE ADMINISTRATION
Name of Committee

July 14, 19 92
Date

The following bill House Bill 40

was TABLED, by motion, on July 14, 19 92.

[illegible]
For the Committee

[illegible]
For the Chief Clerk

11:40 AM
Time

7-14-92
Date

CS-04
1991

HOUSE STANDING COMMITTEE REPORT

July 14, 1992

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that HB 56 (first reading copy -- white) do pass as amended .

Signed: ______________________
Jan Brown, Chairman

And, that such amendments read:

1. Title, line 10.
Strike: "2-18-101,"
Following "2-18-301"
Strike: ","

2. Pages 1 through 4.
Strike: section 1

Renumber: subsequent sections

3. Page 4, line 24.
Following: "department"
Insert: "of labor and industry"

4. Page 5, lines 22 and 23.
Strike: lines 22 and 23

5. Page 13, line 10.
Strike: "6, 7"
Insert: "5, 6"

6. Page 13, line 12.
Strike: "5"
Insert: "4"

MONTANA PUBLIC EMPLOYEES ASSOCIATION

1426 Cedar Street • P.O. Box 5600
Helena, Montana 59604
Telephone (406) 442-4600
Toll Free ~~1-800-221-3468~~

DATE 7/
HB

July 14, 1992

TO: State Administration Committee

FROM: Tom Schneider, Executive Director

Subject: HB 40

Honorable State Administration Committee, I want to make one thing clear as I start my presentation, HB 40 is put before you to give you the option of putting people out of work on a retirement benefit instead of on unemployment.

I would have much rather presented you with a plan that would have covered more employees and saved the state more money in the long run (see attachment) but there is too much cost for the system to bear if you pass a plan like Massachusetts passed which is very similar to the ones in California and Alaska.

The fiscal note reflects that approximately 182 PERD members will retire at a cost of approximately $ 6 million dollars. I don't believe that for a minute and you shouldn`t either. The number that will retire will be closer to 60 people maximum. But remember, thats 60 people on retirement not unemployment. Some of those who retire will be local government. As you can see in the newspapers right today Cascade County is looking at layoffs as are many other local governments.

This bill is not a raid on the retirement system. It's no different than those who received free prior service, military service, or those who retired right after a benefit enhancement.

I know all of the arguments against HB 40 by heart. I also know that the state is faced with a funding problem and some of us are trying to come up with some way of reducing government without the pain of putting people in the streets.

Thank you for your consideration....

MPEA

Eastern Region
P.O. Box 22093
Billings, MT 59104
(406) 245-2252

Western Region
P.O. Box 4874
Missoula, MT 59806
(406) 251-2304

DATE 2/4/92
HB 210

STATE & LOCAL NEWS

Office Closings

LOS ANGELES RIOTS AFFECT PUBLIC WORKERS' EMPLOYMENT

LOS ANGELES—The worst violence to hit Los Angeles in 27 years forced thousands of public and private sector employees to stay off the job April 30, government officials, union representatives, and business leaders told BNA, while thousands of others who did show up for work were sent home by employers worried about the continuing violence.

Moreover, in the longer-term, those workers face almost certain sacrifices as Los Angeles, already suffering through a recession, adds up the cost of a night of rioting, looting, and the setting of more than 200 fires in certain areas of the city in reaction to the not-guilty verdict in the city's police brutality case.

"There is no good time for something like this, but in the economic life of the city, you almost couldn't pick a worse time," John Wyrough, executive director of Council 36 of the American Federation of State, County, and Municipal Employees, told BNA April 30, echoing a sentiment voiced by government, business, and union sources.

No School, Bus Service

Meanwhile, a second night of violence in Los Angeles all but shut down the city May 1, as the number of deaths, injuries, and buildings burned continued to rise. Authorities closed schools in most of the city and county, and businesses throughout the area told workers to stay home. The Rapid Transit District, the city's bus line, canceled all service.

The violence erupted April 29, particularly in predominantly black south central Los Angeles, after an all-white jury acquitted on all but one count four white police officers accused of beating black motorist Rodney King 14 months ago.

At the request of Mayor Tom Bradley (D), Gov. Pete Wilson (R) declared a state of emergency in the city and county, and a dusk-to-dawn curfew was imposed on south central Los Angeles.

By the morning of May 1, authorities listed the number of dead from the violence at 27 and those injured at more than 1,000. City fire officials were quoted as saying that more than 1,500 buildings had been destroyed by fire.

Some 2,000 state national guardsmen were deployed in the hardest hit areas in a bid to stem the looting that wiped out hundreds of mostly small businesses, Wilson said in an announcement. He said he also had spoken to President Bush about the possibility of calling in federal troops.

Functions Threatened

Even before the violence, the Los Angeles City Administrative Office had advised representatives for 45,000 city employees whose contracts expire between June 30 and Oct. 1 that the city would push for across-the-board wage freezes and, in some cases, unpaid furloughs for municipal employees.

"Now there are bound to be calls for beefed up police presence at the expense of vital city functions," Wyrough warned.

Private sector employees, particularly in the tourism and service industries, also are likely to suffer from the effects of the violence.

"This will have a measurable, adverse impact" on the area's economy, predicted Arthur Shaw, chief economist at the Los Angeles Chamber of Commerce. The televised images of looting and fires especially will hit tourism, "our third most important export industry," he added.

Board Offices Closed

The impact of the violence on public and private sector employees was immediate. The Los Angeles County Board of Supervisors closed all its offices except those for emergency services in south central Los Angeles, where 20 of its buildings were destroyed. Some municipal and superior court proceedings were closed, as police officers and sheriff's deputies normally used as security personnel were assigned elsewhere.

However, while radio stations throughout the city warned workers to stay away from downtown, the site of rioting and looting April 29, a spokeswoman for the board said employees missing work in non-curfew areas, including downtown, would not be paid. The mayor, who requested the state of emergency declaration, nevertheless ordered city workers to report to work, a spokeswoman for his office said.

The California State Employees' Association, which represents 7,000 state workers in south central Los Angeles, including 2,000 workers on the California State University campus, ordered all area employees to stay home. "There is no reason these workers should risk their lives by going to work today," CSEA Civil Service Division Director Perry Kenny said. Under state law, state employees in an area where an emergency has been declared are paid even if they do not report to work, CSEA said in a statement.

Legislation

MASSACHUSETTS' RETIREMENT INCENTIVE EXPECTED TO CUT WORKFORCE BY 4,500

BOSTON—Massachusetts Gov. William Weld (R) April 22 signed into law an early retirement incentive bill (Ch. 22) that will allow up to 7,000 state workers to receive bigger pensions if they choose retirement in the next six weeks.

Those accepting the incentive package will add five years to their age or length of service. The application

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period runs from May 1 to June 15, and retirement would commence on July 1, 1992.

The Weld administration predicted that the program will save the state $30 million over the next two years and reduce the state workforce by 4,500 employees. Combined with a reduction of 5,786 employees that has taken place over the last year and a half, the program will have brought total reductions to 10,286 employees—approximately 15 percent of the state workforce—since Weld took office in January 1991.

Enactment of the bill also produced a guarantee from the administration that there would be no more layoffs of state workers.

13-Month Wrangling Ended

Approval of the early retirement bill ended 13 months of wrangling with the state Legislature over the form of the retirement incentive package. The final version is similar to what Democratic leaders had proposed. Weld contended that three versions of a bill he had submitted would have produced savings ranging from $50 million to $80 million.

Eligible to retire under the new law are employees who are 55 years old with at least 10 years of service and under age 55 who have 20 years of service. Rep. Kevin Blanchette (D), chairman of the joint Public Service Committee, said the average eligible employee would receive a 12 percent boost in pension benefits by accepting the incentive. The maximum benefit is 80 percent of final pay.

The new law caps the retirement program at 7,000—5,600 workers in administrative and bureaucratic positions and 1,400 in direct care jobs. It excludes judiciary and university employees. Under the law, the state may fill no more than 15 percent of positions vacated by the early retirements. The administration estimates that 5,300 employees will choose to retire and that the permanent workforce reduction will be 4,500.

Camping-Out Reported

A dispute over the application procedure erupted after the bill was enacted. Applications are to be accepted on a first-come, first-served basis, and there were reports that anxious state workers already had begun camping out on the sidewalk outside a state government building in Boston for a place in line to submit their application.

Efforts to change the application procedure to a seniority-based or lottery-based system failed in the Legislature. Blanchette contended that both of those methods would have required increased bureaucracy and delays in application processing and that applicants would have had very short notice between learning of acceptance and beginning their retirement.

Chances that the program will be oversubscribed "are almost mathematically impossible," Blanchette contended, citing the administration's estimate that only 5,300 state workers will accept the plan and asserting that the total number eligible is not much more than 7,000. "You can't legislate against irrational behavior," he said, alluding to those who planned to line up overnight to submit their applications.

Two companion pieces of legislation still are pending in the Legislature. One (H 5260) would raise the pension amounts of current retirees by 5 percent on their first $9,000, a maximum increase of $450, retroactive to Jan. 1, 1992. The bill has been passed once and returned with amendments by the governor, who called for a 4 percent increase effective in July 1993. It is expected that the original bill will be passed again, that the governor will veto it, and that the veto will be overridden.

Bill In Conference Committee

The other bill (H 4999), currently in a conference committee, would extend the early retirement lure to municipal employees and teachers. The sticking point is whether the state, which pays for teachers' retirement, will pay the actuarial cost of additional benefits or whether municipalities will pick up that extra cost. It is anticipated that about 5,000 teachers would retire, and average annual pensions currently are $25,000, Blanchette said. The proposed incentive for teachers would allow those age 55 with 20 years' service to add four years to their age or service.

In passing the early retirement bill for state workers, legislators accepted proposals by Weld to study a separate program for judicial and state university workers, and they agreed to limit to 600 the number of retirees paid from federal, trust, and capital accounts. They rejected a Weld proposal to spread the payment of accrued leave to retirees over a two-year period.

The retirement incentive sought by Weld would have allowed employees to add only three years to age or service but would have offered retirement to any worker with 15 years of service. A proposal by Blanchette that was rejected would have given workers who already had qualified for a maximum pension benefit a bonus of $500 per year of service as an incentive to leave the state workforce.

Public Safety

ST. PAUL'S FIRST FEMALE FIREFIGHTERS HIRED BY FALL

ST. PAUL, Minn.—St. Paul officials April 24 announced that the city would hire its first female firefighters later this summer, provided they successfully complete training.

The hiring of the 11 women would end at least one portion of the litigation that began in 1988 when female firefighter applicants sued the city, alleging its physical aptitude test was biased. A ban on hiring subsequently was imposed, and a state administrative law judge later threw out the test as discriminatory. He also ordered the city to design a new test (28 GERR 1143).

Although that test still is being developed, the administrative law judge approved an interim hiring plan to deal with the city's firefighter shortage. The plan included physical aptitude testing based on that of the Phoenix, Ariz., fire department. Nine of the women to be hired passed that test.

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HB 40

Testimony in Opposition to House Bill 40

Mark A. Cress, Acting Administrator
Public Employees' Retirement Division

I am testifying on behalf of the Public Employees' Retirement Board. The six members of the board are responsible for the administration of the Public Employees' Retirement System and are trustees over the retirement trust funds. The board is opposed to the passage of House Bill 40 for the following reasons:

- The bill does not reduce government costs and will cause a net increase in costs for state and local governments in FY 93.

- Employees eligible to retire under this window period are employees with many years of service. These employees have, on the average, large balances of accumulated sick and annual leave.

- The cost of cashing out that sick and annual leave will exceed any vacancy savings that may be realized in FY 93.

In addition to a negative impact on government costs and general fund costs, this bill would result in a major drain on the Public Employees' Pension Trust.

- The primary outcome of this bill is to significantly increase the cost of retirement benefits for a small group of public employees.

- We estimate that 182 state and local employees will take advantage of this early retirement window. The additional costs for these 182 employees would require that $6.2 million in existing pension funds be set aside. This is an average of $34,000 per employee.

- House Bill 40 contains no funding for these increased benefits. The $6.2 million must be drawn from the pension trust that belongs to all state employees, local government employees and all public retirees. 40,000 people have a stake in those funds.

- The Public Employees' Retirement Board has serious reservations about the equity of significantly improving the benefits for 182 employees with assets that belong to 40,000 people.

- Some of those 40,000 may have just recently retired. If they choose to retire early, their benefit was reduced by the early retirement reduction. Employees retiring during this window would avoid any reduction. This would result in a permanent difference in monthly benefits of up to 30% between an employee who retired last week and someone retiring during this window, even with the same salary and length of service..

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- The Board is also concerned about the inequity for employees who may become eligible a month or two after the window period. Again, their life-time retirement benefit may be significantly lower than someone who retired a few weeks earlier.

A legislative interim subcommittee on retirement has been meeting over the last year and has received significant public testimony about our retirement systems. This subcommittee has not identified early retirement options as the problem most in need of attention. They have identified the lack of a consistent, structured cost of living adjustment.

- This bill would entice a group of employees to retire early, at a younger age, and at a lower benefit than they would have received had they worked for 30 years.

- These same employees are likely to be back in 5 to 10 years concerned that they can't make ends meet because their monthly benefit is too low and their retirement system has no meaningful cost of living adjustment.

- The Public Employees' Retirement Board would encourage this committee to give serious consideration to the proposals in front of the interim subcommittee for a structured cost-of-living mechanism that would benefit all retirees. This would be a much more equitable way to expend retirement funds than to spend $6.2 million on a small group of early retirees.

The Public Employees' Retirement Board urges you to vote "do not pass" on House Bill 40.

Linda King, the Assistant Administrator of the Retirement Division is also here to testify today. Linda has done research on early retirement options, their potential for cost savings and the experience of other states. She also did the majority of work in preparing the fiscal note on this bill.

Thank you.

DO NOT SEND

EXHIBIT ___
DATE 7/14/92
HB 40

STATE OF WASHINGTON

JOHN SPELLMAN, Governor

A STUDY OF THE EARLY RETIREMENT ACT OF 1982

Management Services Division
Office of Financial Management

EXHIBIT 2
DATE 7/14/92
HB 140

V. CONCLUSIONS

The conclusions of this study are based on findings derived from the preceding first-year analyses of the effects of the early retirement program on state agency operations and finances and the characteristics of the early retirees.

A. The profile of the average early retiree based on the total early retiree population is the following:

• Number	3,211 early retirees
• Annual Salary	$23,562
• Years of Membership	21 years
• Average Age at Retirement	56 years old
• System Membership	PERS

B. The early retirement program had negative financial effects on the State General Fund and state retirement systems.

1. The estimated first year costs of the program as analyzed in this study to the State General Fund were $5.8 million, and savings were $4 million, resulting in net costs to the General Fund of $1.8 million. (Savings and costs related to agency productivity and efficiency are not included. They cannot be projected or calculated effectively for the purposes of this study.)

2. The program lacked actuarial adjustment to participant benefit payments and a means of preventing the "ballooning" of such payments with participant accrued or unused leave benefits once SSB 5007 was declared unconstitutional.

3. The early retirement program (and SSB 5007) caused nearly three times as many state employees to leave state service than normally did annually in previous years. This reduced salary costs and staff levels but caused the state to pay a substantially larger sum for retirement benefits.

C. State agency comments on the early retirement program indicate that most agencies were generally unprepared for its spectrum of organization, personnel, and operations during fiscal year 1983.

1. Many respondents felt the program and its potential effects were insufficiently explained to them at the onset.

2. Agency management comments indicated few agencies had a management plan or strategy for simultaneously refilling vacancies, reorganizing operations, continuing projects and training new staff as the "ripple effects" of the program occurred throughout FY '83.

D. Early retirement affected operations differently in the various state agencies.

1. PERS state agencies and political subdivisions:

- Technical Departments and Agencies

State agency personnel were interviewed as part of the questionnaire telephone follow-up process. Several of those in technical state agencies (e.g., Departments of Transportation and Game) indicated they had lost numerous senior and middle level management staff who had at least 10 years of employment left before they would regularly retire at age 65. Most of the agency personnel interviewed felt their agencies had suffered from the suddenness and amount of turnover in operations and project management staff.

- City and County Government, the Ports and PUD's

Questionnaire and follow-up telephone interview comments from management personnel at the local government and political subdivisions indicated they felt they had experienced substantial losses compared to the larger state agencies. They stated that not only did they lose senior or project managers who were difficult to replace, but also they had a much smaller labor pool of replacement personnel from which to choose. The Water Districts, the Ports, and the PUD's were particularly affected in this manner.

- Human Service Agencies

Follow-up telephone interview and questionnaire comments indicated state service provider agencies did not feel the effects of early

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retirement as keenly as the more highly technical ~~agencies. Several~~ personnel from the human service-oriented and ~~highly technical~~ agencies stated it was harder to replace such technical staff as engineers with 10 to 20 years experience than non-technical personnel given the availability of engineers in the state and local job markets.

2. TRS school districts:

The larger, urban school districts were more likely to absorb the effects of early retirement. For most of these larger urban school districts, questionnaire comments suggested the early retirement program helped them avoid layoffs, and facilitate program reassessment and reorganization and balance the district budget. For smaller, more rural districts with comparatively small early retiree replacement pools, the effects of early retirement were more difficult to overcome.

3. Higher Education

Generally, state agency comments and the study data indicated that higher education institutions experienced some savings from salary differentials (i.e., early retiree salary less the replacement salary). Yet several of the institutions suffered key faculty losses difficult to compensate for in two to five important academic departments simultaneously (e.g., Business, the Sciences and Engineering). To diminish the effects of early retirement, all the higher education institutions combined hired back over a third of their early retirees at 40 percent of their former annual salary and former workload.

E. The effects of an early retirement program on the State General Fund and state agency operations are not readily apparent or easily perceivable in the two years after its implementation.

1. Productivity and Service Reductions

Several questionnaire respondents speculated that most state agencies would not feel to feel the staffing and operations effects of the early retirement program for at least two years. They felt it would take at least that long for the agencies most severely affected to adjust to the staff losses, train and integrate new staff and reorganize their operations.

2. Savings and Costs Realized

Projected early retirement program savings and costs are short-term items affecting agencies only in a cash flow sense in the year of program implementation. These savings and costs are not real "savings" or "costs" until the budget process concludes at the agency and state government levels. For example, numerous state agencies realized substantial immediate salary differential and position (FTE) elimination savings attributable to early retirement. Yet these savings were largely consumed by budget reductions that were occuring simultaneously with early retirement. In several instances these savings were more than balanced by early retiree rehiring (i.e., as a temporary or part-time employee) replacement hiring, overtime and "time-lost" costs as well as the incalculable costs of lost expertise, lost informal operations knowledge and short and intermediate-term inefficiencies as agency staff reorganize and integrate new employees.

F. State agencies hired back nearly one of every ten early retirees for periods of three to six months at a projected cost to the State General Fund of nearly $3 million in FY '83. Numerous agency management personnel attributed the high frequency of "hire backs" (by their estimation) to insufficient agency preplanning for the multiple personnel effects of the early retirement program.

- Those agencies which hired back significant numbers of early retirees (e.g., University of Washington and the PUD's) indicated they did so out of necessity. They felt hiring back an early retiree for a short time to complete a project or train a replacement was better than disrupting the project while a suitable new hire was sought or an untrained replacement assume responsibility.

G. There were positive effects of the early retirement program, according to the study comments of state agency managers:

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- Numerous state agencies and political subdivisions avoided additional layoffs, with its attendant impacts on agency operation and morale at a time of statewide staff and budget reductions..

- Several state agencies re-examined their missions and reorganized to implement them more effectively in response to key senior staff losses.

- In several state agencies, it created substantial promotional opportunities for less senior staff and created a more productive and positive working environment.

- Numerous state agencies and governmental subdivisions achieved greater productity with fewer staff after rigorous internal re-structuring.

- The agencies most severely affected by the program realized they needed to establish internal training and development programs for junior staff to prepare them to replace senior staff without transitional disruption, should the need arise.

VI. FUTURE CONSIDERATIONS ON EARLY RETIREMENT

The defined charge of this study is to assess the first year effects of the early retirement provisions of 2SHB 124 on the state General Fund and agency operations. Implicit in the findings of the study, however, are suggested considerations for guiding any future early retirement discussions. They also suggest considerations for examining the operations and funding of the state retirement systems which would be affected by any future early retirement initiative. The suggested considerations appear below.

1. It is suggested that state government conduct a comprehensive front-end analysis of the potential effects of any proposed early retirement program to avoid the unanticipated financial and operational impacts evidenced in the first year of 2SHB 124.

2. Any future early retirement program, to be a more effective workforce reduction and budget control mechanism, should include full actuarial adjustment of participant benefits as well as elimination of the potential for excessive benefit ballooning, and possibly a two tier benefit payment plan that voluntarily redistributes participant payments adjusting for social security benefits received after age 62.

    - Inclusion of these suggested cost constraints in any future early retirement program would reduce its State General Fund costs compared to those of 2SHB 124 - and increase its utility to state agency managers. The cost constraints would require legal and political feasibility analysis, however, to determine their appropriateness.

3. The implementation timing of any future early retirement program is crucial in order to maximize its positive effects.

    - The 1982 program was implemented simultaneously with other budget and staff reduction measures (e.g., lay-offs). This obscured the initial intent of the program and produced widely varying effects on state agency and subdivision finances and operations. It also eliminated the program's potential as a positive management tool to enhance state agency efficiency. State agency and subdivision managers commented they were preoccupied with the other reduction measures and were unable to take advantage of the program effects.

4. Before implementation of any future early retirement program, it is suggested that employer contributions to the TRS retirement system be made directly by local school districts rather than through a line-item appropriation from the State General Fund. Yet this suggestion will require political and financial feasibility analysis to determine its appropriateness and potential for cost savings.

   - This approach would make the TRS contributions to teachers within each district parallel to those contributions to PERS for classified K-12 personnel. It would also hold school districts directly accountable for these contributions, capture non-state staff funding lost under the current system and provide contribution uniformity between the two systems.

5. Any future early retirement program should contain means of eliminating opportunities to balloon early retiree average final annual salaries, the basis for determining early retiree monthly and annual benefit rates.

   - The early retirement program authorized by 2SHB 124 was more costly because of the ballooning effect. This was particularly the case among the early retirees of the Counties, Ports, Water Districts and Public Utility Districts.

6. Any future early retirement option might include a prescribed rehiring wage rate and duration limit for state agencies to apply when they decide to rehire an early retiree on contract or temporarily.

   - The remuneration rate of the state agency could be an average of the market rate for the services to be performed and the hourly rate of the early retiree when last employed by the agency.

7. Were a selectivity element included in a future early retirement option, the option would have a more balanced effect on and be a potentially valuable management tool for state agencies.

- The SSHB 124 early retirement option adversely affected the technical state agency and political subdivision employers far more that it did non-technical agency employers.

8. It is suggested that any future early retirement option contain defined objectives and measurable criteria for success or failure in terms of workforce reductions, efficiencies to be achieved, costs reduced or savings realized.

   - This would permit easier assessment and time-bound tracking of the aftereffects of the option on workforce size and state agency finances.

9. The state might consider operating an early retirement program on a defined contribution basis as opposed to a defined benefits basis. These departures from the current system would allow early retirement to be initiated at any future date at no additional cost to the state.

   - Managing the state pension system on a defined contribution basis would ensure contributions are current and link contribution and benefit levels. This would prevent a special benefit provision without a contribution provision to pay for it, avoid inequitable treatment between full and part-time state employees, and eliminate the disparity of payout per dollar investment between early and regular retirees under the current system.

   - This option would also help prevent the ballooning of benefit payments, limit or more clearly define the range of benefit elements and costs the early retiree and the employer agency would be paying for, and provide systematic management of a temporary early retirement program as a part of a total retirement system.

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HB 110

EARLY RETIREMENT INCENTIVES IN THE PUBLIC SECTOR:

Why Early Retirement Windows Don't Cut Government Expenses

Why don't state and local governments save the "millions of dollars" we hear that private companies save by offering early retirement incentives to their employees in an effort to reduce senior management or to downsize their organizations?

There are a couple of major differences between the early retirement windows offered by private industry and those available to multi-employer public pension plans such as PERS and these differences substantially change the financial attractiveness of an early retirement window for public employers.

<u>Government Defined Benefit Plans Are More Expensive to Enhance</u>. The first major difference is that private pension systems are generally "defined contribution" pension plans, whereas the PERS and other public plans are "defined benefit" pension plans.

In a defined contribution plan, the benefit paid out is determined (and limited) by the amount of money the individual member and his employer have put into the plan and the investment yield on those funds. **It costs a private employer nothing** to allow an employee to retire early from such a plan. Even if the employer wishes to "sweeten the pot," they can offer a lump-sum amount in addition which is a one-time cost to the employer at only 66 cents on the dollar.

A defined benefit plan, however, promises a benefit based on a formula. Allowing a member to retire early at actuarially unreduced "full benefits" can result in up to a 48% increase in benefits (over the amount previously pre-funded) **which must be fully funded in the form of increased employer contributions to the retirement system.** The actual cost of the limited (6-month) early retirement window proposed by HB 40 would be a PERS employer contribution rate increase equal to .77% of salaries. But HB 40 is deficient in not proposing to increase employer contributions to pay these cost and therefore this bill will add more than $6 million in unfunded liabilities to the PERS pension trust in return for windfall benefits for a tiny percentage of the membership.

In addition, **lump-sum payouts** of sick and annual leave (which many private employers do not make) are **expected to cost PERS employers approximately $1.9 million during the window period.** These payouts will not be offset by salary savings in FY 93.

<u>Public Employers Pay Higher "Out-of-Pocket" Expenses When Offering Early Retirement Incentives</u>. Even in the case where the private pension plan is totally funded by the employer, 34% of any increase in benefits paid by the employer is effectively funded by "soft tax dollars." When a private employer makes a contribution to a pension plan, their taxable income is reduced dollar-for-dollar by the amount of the contributions made to their qualified retirement plan; therefore, the **cost of funding a private retirement benefit is only .66 on the dollar.**

Conversely, **Public employers must pay, in hard cash, the full amount** of any contributions required to fund an early retirement window or for any lump sum cashouts of sick and annual leave made to terminating employees.

(over)

Neither Public Nor Private Employers Can Achieve Short Term Savings through an Early Retirement Window. When private employers plan to downsize their corporations by eliminating branches or entire subsidiaries, it is often in response to a "10-year plan" to increase profits. Changes in the market place are anticipated and reorganizations are effected on a proactive basis. It is often cost effective for a big corporation to spend several millions of dollars and show a major loss in one calendar quarter in order to achieve a **long-term savings by eliminating entire programs** or subsidiaries.

Public employers, on the other hand, are usually faced with meeting unexpected, short-term budget shortfalls. As is the case today, we are trying to eliminate an anticipated deficit in the coming fiscal year without eliminating the functions or programs of government from which the employees may be retiring. Because of the extremely high "up-front" costs of employee cash-outs of sick and annual leave, early retirement incentives only **worsen the short-term budget problems** of government employers.

Public Plans Can't Target Benefit Enhancements to Specific Members in Order to Achieve Long-Term Savings. Another major difference between early retirement windows offered by private employers and those which must be offered by public pension systems is the group to whom the window may be offered. **Private companies can selectively offer early retirement windows** to individual divisions or even individual employees, backed up by the threat of transfers and/or layoffs, to help them achieve their goals for corporate downsizing.

Public pension plans must offer windows to all employees in similar circumstances (e.g., those with 25 years of service, regardless of age). Because the average PERS member retires with only 18 years of service, there are relatively few persons (less than 3% of the membership) who would be eligible to take advantage of such a window. Since these persons would also be less than 60 years of age, they would not actually retire but would change to jobs in the private sector, or, as some states have found, be hired or contracted back by their former employers at effective salaries higher than the employee was making when he or she "retired." Only those persons who could effectively compete for private sector jobs would terminate state employment during the window, resulting in the state losing its best qualified employees and retaining those who could not find employment elsewhere.

Because there is **no selectivity** in being able to offer early retirement windows to particular PERS members, and no plans to eliminate the programs from which they will retire, there is a high probability that those persons actually leaving state employment with over 21 or 25 years of service will be in fairly important positions which will need to be refilled. A 1986 study by the Public Employees' Retirement Division found that positions refilled after a person retires are refilled in the following manner: 60% are refilled at a lower salary (which averaged 85% of the retiree's salary) and 40% are refilled at the same or a higher salary. The person "waiting in line" for promotion to the vacant position is usually a long-term employee, not someone hired off the street. And, even when a new employee is hired to fill a vacancy, the new pay plan has effectively increased entry salaries to the extent that there is likely to be even less savings today than in 1986 when that study was made.

Public Employees' Retirement Division
July 14, 1992

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HB ~~23~~ 56

TESTIMONY OPPOSING HB56

The Department of Administration opposed HB56.

HB56 eliminates two major work units in the State Personnel Division, transfers state employee pay administration from the State Personnel Division to the Department of Labor & Industry, and changes the Board of Personnel Appeals administrative rules to exclude the State Personnel Division in an appeals process. The bill anticipates laying off 8 employees in State Personnel Division. But <u>the bill does not eliminate the statutory responsibilities</u> that are being performed by these work units.

Programs for which staff is eliminated are:

I. <u>LABOR RELATIONS AND PAY ADMINISTRATION (General Fund)</u>

A. <u>Purpose</u> of these programs: To comply with Title 39, Chapter 31 and with Title 2, Chapter 18, Part 3.

B. <u>Effects of HB56</u>
   1. Eliminates all staff (4.5 FTE) for these programs.
   2. Transfers collective bargaining functions to OBPP.
   3. Transfers administration of pay to Department of Labor & Industry.

C. <u>Why is gutting labor relations staff a bad idea?</u>
   1. Collective bargaining takes two sides. Eliminating almost all of the negotiators for management's side doesn't change management's role. Instead, negotiations will grind down to a snail's pace.
   2. No one else does it. The chief labor negotiator has sole authority to sign collective bargaining agreements with unions on behalf of the governor (as the governor's designee required by the Public Employees Collective Bargaining Act, Title 39, Chapter 31). The state has 77 agreements with 19 unions covering 6,079 employees.
   3. Agencies do not have staff and expertise to comply with the Act.
   4. Moving the labor negotiator to OBPP will separate this staff from personnel policy, classification and benefits resources and hinder coordination with other personnel activities such as pay, benefits, classification, legal developments.

D. <u>Is Labor Relations a duplication?</u> No.
   1. Only the chief labor negotiator can enter into agreements. Departments of Transportation and Corrections have staff expertise to administer their own contracts (handle grievances, interpret language), but all other agencies rely on this staff for those services as well.

2. Agency personnel staff handle all day to day hiring, discipline, discharge, RIF, promotions, demotions, and some classification work for 10,500 positions.

E. Why is eliminating the Pay staff a bad idea?
   1. HB56 transfers administration of Title 2 Chapter 18 Part 3 to Department of Labor & Industry but does not transfer adequate resources via HB2 to administer pay, write pay rules, conduct salary surveys and develop special pay programs.
   2. Separating pay from other personnel functions will make administering policy, leave, benefits, classification and pay all more difficult. The intent of the negotiator in OBPP will have to be conveyed to pay administrators in Labor and to benefits and classification staff in Administration.

F. Is the pay program a duplication? No one else has authority to administer and write pay rules and programs.

II. PROFESSIONAL DEVELOPMENT CENTER (PDC) (Proprietary Fund)

A. Purpose of PDC: To comply with 2-18-102, MCA, which states that the department of administration shall "foster and develop programs . . . for the improvement of employee effectiveness, including training . . ."

B. Effect of HB56
Eliminates this entire proprietary program (3 FTE)

C. Why is PDC staff needed?
   1. To provide training to managers on state and federal personnel management laws and rules. To provide managers training in effective, cost efficient management. To reduce potential legal liability for law infractions.
   2. To combine volume and provide or purchase training from contractors to upgrade workforce skills at a lower cost than agencies could afford on their own.
   3. In FY92, spending only $162,000 with only three FTE, PDC provided training to 5,537 employees.

D. Is PDC a duplication? No.
   1. No one is required to attend or send employees to PDC training. PDC is strictly self-funded and receives no general fund. If courses aren't needed, no one will come.
   2. Some agencies have training staff to address agency specific rules and procedures and professional issues. The state trainers meet regularly to prevent duplication and to coordinate resources.
   3. PDC prevents duplication by coordinated commonly needed training centrally at a lower cost than agencies could attain individually.

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4. PDC also offers services such as meeting facilitation, conflict mediation and coordination of conferences not provided elsewhere.

III. CLASSIFICATION APPEALS AT STEP 3 OF GRIEVANCE PROCEDURE (General Fund)

A. Purpose: To comply with 2-18-1011, MCA, regarding classification appeals and with Administrative Rules promulgated in ARM 24.26.5 by the Board of Personnel Appeals, which oversees classification appeals. The Board's rules provide that the steps in the process are:

Step 1	Immediate supervisor
Step 2	Agency head
Step 3	State Personnel Division
Step 4	Board of Personnel

B. Effect
Codifies Board of Personnel administrative rules to delete Step 3 of the classification appeals process.

C. Why have a Step 3?
1. State Personnel Division is the authority whose decision is being grieved in most cases.
2. Many grievances can be settled at this step rather that going to the board.

D. Is Step 3 a duplication? No.
1. Agencies do not have authority to settle a grievance. Classification has delegated some limited authority to settle certain job classes to MSU, U of M, SRS, and Transportation.
2. When an agency has done an investigation and issued an opinion, classification does not redo their work.

IN SUMMARY, personnel administration is a discipline made up of a continuum of programs and activities all with one goal: to have a productive workforce. To fragment personnel is counter to this goal. To keep the laws on the books but eliminate the resources to comply is to invite litigation. *Please vote DO NOT PASS on HB56.*

Presented by Laurie Ekanger, State Personnel Division, 444-3871.

EXHIBIT ______
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Amendments to House Bill No. 56
First Reading Copy

Requested by Rep. Cocchiarella
For the Committee on State Administration

Prepared by David S. Niss
July 14, 1992

1. Title, line 10.
Strike: "2-18-101,"
Following "2-18-301"
Strike: ","

2. Pages 1 through 4.
Strike: section 1

Renumber: subsequent sections

3. Page 4, line 24.
Following: "department"
Insert: "of labor and industry"

4. Page 5, lines 22 and 23.
Strike: lines 22 and 23

5. Page 13, line 10.
Strike: "6, 7"
Insert: "5, 6"

6. Page 13, line 12.
Strike: "5"
Insert: "4"

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EXHIBIT 7
DATE 7/14/92
HB 56

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 7/14/92 AGENCY ____________ NUMBER 1

MOTION: Amend HB #56

Motion carried 11-8

NAME	AYE ~~PRESENT~~	NO ~~ABSENT~~
REP. VICKI COCCHIARELLA, VICE-CHAIR	✓	
REP. BEVERLY BARNHART	✓	
REP. GARY BECK	✓	
REP. ERNEST BERGSAGEL		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ERVIN DAVIS	✓	
REP. JANE DEBRUYCKER	✓	
REP. ROGER DEBRUYCKER		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER	✓	
REP. PATRICK GALVIN	✓	
REP. HARRIET HAYNE		✓
REP. BETTY LOU KASTEN		✓
REP. JOHN PHILLIPS		✓
REP. RICHARD SIMPKINS		✓
REP. JIM SOUTHWORTH	✓	
REP. WILBUR SPRING		✓
REP. CAROLYN SQUIRES	✓	
REP. JAN BROWN, CHAIR	✓	
TOTALS	11	7

EXHIBIT 3
DATE 7/14/92
HB 56

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 7/14/92 AGENCY ____________ NUMBER 2

MOTION: Do Pass as amended
HB 56
Motion carried 11-8

NAME	Aye ~~PRESENT~~	No ~~ABSENT~~
REP. VICKI COCCHIARELLA, VICE-CHAIR	✓	
REP. BEVERLY BARNHART	✓	
REP. GARY BECK	✓	
REP. ERNEST BERGSAGEL		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ERVIN DAVIS	✓	
REP. JANE DEBRUYCKER	✓	
REP. ROGER DEBRUYCKER		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER	✓	
REP. PATRICK GALVIN	✓	
REP. HARRIET HAYNE		✓
REP. BETTY LOU KASTEN		✓
REP. JOHN PHILLIPS		✓
REP. RICHARD SIMPKINS		✓
REP. JIM SOUTHWORTH	✓	
REP. WILBUR SPRING		✓
REP. CAROLYN SQUIRES	✓	
REP. JAN BROWN, CHAIR	✓	
TOTALS	11	8

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. HB 40

DATE July 14, 1992 SPONSOR(S) Rep. Cocchiarella

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
LINDA KING	PERD		✓
Terry Teichrow	PERD Board		✓
Mark Cress	PERD		✓
John Den Herder	AMRPE		
Tom Schneider	MPEA	X	
John Malee	[illegible]	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

State Administration COMMITTEE BILL NO. HB 56

DATE July 14, 1992 SPONSOR(S) Rep Cocchiarella

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
~~John M. Dun Herder~~	~~AARP~~		
Dawn Eberger	State Personnel		X
Brian McCullen	Labor		X
Bob Raffenti	Labor		X
Melanie Symons	DLI		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.