

The meeting was called to order at 10:00 a.m. by Chairman Brand, roll was taken with no one absent.

See Attachment #1 for Dick Hargesheimer's summary of HB 248, 249, and 263.

HB 248--Rep. Kimble, sponsor--This bill amends Section 58-1008, of the R.C.M.'s, dealing with abuse of sick leave as cause for dismissal. Basically, it limits the amount that is deducted. This is a policy decision, and either you agree or you don't. (see attachment #2 for Kimble's testimony)

DON JUDGE, AFSCME, AFL-CIO--We support this. The current statute provides that dismissal for abuse means that all accumulated sick leave would be lost. We feel abuse proven by management constitutes loss of just what sick leave was abused. All public employees would benefit from this.

TOM SCHNEIDER, MPEA--We support this. However, I have always felt the current law was probably pretty challengeable; because time earned under proper circumstances is then taken away - and this could be challenged. We don't agree with the abuse - if it is done after 25 years of good service - that's ridiculous. It would probably save us legal fees in the future.

#### OPPONENTS

DAN MIZNER, representing the City Clerks Association--If you keep records of someone who has taken time off, then you take that time off in terms of the record. It should be clarified as to whether just the leave is deducted, or whether it is deducted in addition to the time taken off. If someone is dismissed because of this action, then you deduct the time off. If they are not dismissed, then you have to take it off in all sorts of ways. I ask that you check the language so that we know how to keep the records. This is a subject for computation and must be clarified.

KROPP--Who determines what is abuse? KIMBLE--It is an administrative decision. It appears to me that if you were abusing your leave, and were dismissed, you would have that leave deducted, plus an identical amount of time as a penalty. FEDA--Do they build this back up each year? SCHNEIDER--Sick leave is an unlimited accrual. What this addresses is at the time you are terminated, you forfeit any payment for accrued sick leave, but you would still be paid for any time not abused. RYAN--Under the current law, if you abuse then you lose all of your sick pay? SCHNEIDER--Yes, but that is what we are trying to clarify. MULAR--Then the time abused is doubled for deduction? KIMBLE--If an employee were determined to be abusing and fired, the amount of abuse would be deducted from his leave and double the amount would be deducted from the lump sum. MULAR--Presently when you go to the bargaining table, the package of accrued sick leave is part of the deal, is it not? JUDGE--The means by which abuse is decided is a negotiable item at this time. About the bookkeeping - employees who are currently abusing results in a suspension or termination or suspension without pay. LIEN--Do you have an amendment? MIZNER--An employee who is found to be abusing sick leave must forfeit an equal amount of accrued benefits. This could be dealt with on page 3, line 23.

HB 263--Rep. Kimble, sponsor--This bill provides for a partial service payment for firemen with 5 years active duty. This partial payment cannot begin until the fireman reaches his 50th birthday. This would provide for those who have worked for over 5 years but less than 20. (see attachment #3 for Kimble's full testimony)

KIMBLE, (continued)-This provides that a man who leaves after 5 years would be able to collect the accrued benefits but not until his 50th birthday. The amount of terminated firemen is small, and they have usually had less than 5 years if they are terminated. Benefits would be proportionately less than those who stayed more than five years.

AL SAMPSON, Montana Firemens' Association--The reason for this is that we have been asked to come up with something for people forced out before they can accrue a fire pension. Currently, the statute for private pensions is 5 years. Presently, there is a resolution in the United States Congress, which didn't pass to begin with, but has been reintroduced and probably will pass, dealing with this. PERS has a 5 year plan. Can the systems afford this? We went back and talked to Alton Hendrickson, the most qualified man in the state in terms of pensions about this, and I have a letter here from him concerning this - (see attachment #4).

RAY BLEHM, Montana Firemens' Association--Some people come on who are well trained in other areas, and after 11 or 12 years with us, have a chance to do something else - but would lose their accrued benefits. This would give them a way to take this other employment.

#### NO OPPONENTS

KIMBLE-I think this is a benefit they should receive when firemen are faced with termination in their older years - when they can't get other employment. Also, it would not cost anything or very little. I hope you will pass this.

TURNER-What is the set up for the other city employees with this? MIZNER-First and second class cities have a program for police and firemen, and all other employees are under PERS. 40 cities have no retirement plan whatsoever. Volunteer fire departments have a special program which is a self-funded plan. With this, you can't pay out more than 95%. The other plans are based on work, not income.

TURNER-Can other groups come in and ask for this? MIZNER-Yes. BARDANOUVE-Firemen might threaten to burn my house, but you can't say this won't cost anything.

KIMBLE-You are probably right. I have no idea if Hendrickson is right or not, but he seems to be more qualified than me. I personally can't see that, but I don't know what else to go on. MULAR-Does the fireman now get a lump sum benefit commensurate to what he applied?

SAMPSON-Currently, if he retires early, he receives the money he actually put in, but no interest accrued. MULAR-So, you are asking for the employer contribution also? SAMPSON-Yes. MULAR-You compared this with

PERS - what is their retirement age? SAMPSON-50. MULAR-Do you think this would set precedent for PERS to lower their retirement age? SAMPSON-No, due to the fact that firefighting is a high hazard job; although it could affect policemen. We don't know if this would allow many changes. FEDA-How much goes in per month?

SAMPSON-The employee pays 6%, the state pays 10%, and the city pays a portion not to exceed 4 mills. The amount necessary to fund the system would be 28%. LIEN-Under the present law, he will get the 6%, but with this bill, he will get all 28%?

(no answer recorded) TURNER-If no one is taking retirement, why have this bill?

SAMPSON-Because people are being forced out of service; and if they are, they have the benefit coming. BLEHM-The employee gets the interest added on. The sheet you have shows the benefit plan - see attachment #5. BRAND-Under this then the employee

must stay until age 60? BLEHM-No, but he must wait until 60 to get his benefits plus interest. If he quits and wants his money, right now he only gets what he paid in.

HB 249-Rep. South, sponsor--This bill amends the open meetings law - at the present time, employers can meet privately without employees, and also where there are prospective land acquisitions being considered. This deals with school boards. While they are considering these proposals, only analysis is going on, not bidding. During this deliberation, I think it would help to not have to have people present.

WAYNE BUCHANON, Montana School Board--Our convention mandated that we support this legislation. (See attachment #6) We want the private meeting allowance put back into the law. When it becomes known that we are interested in a certain piece of land, usually the cost increases - so we ask for the right to consider this in private. We think this is necessary in order to give us an equal space with land acquisition.

CHAD SMITH, Montana School Board--Both of these provisions were in the law prior to the 1971 and '75 sessions. The idea being that both parties have the freedom to determine, in private, what their position is. If one side can discuss it's position in private, and the other cannot - it creates a gaping discrepancy...I mean really. This way, all members would know prior to coming to the table what their position is. I would reiterate the point raised concerning increases in prices of land. By using a broker, you can investigate various pieces without anyone knowing who wants to buy. We feel both amendments are necessary.

DON JUDGE-AFSCME, AFL-CIO--We propose an amendment, (see attachment #7). We also feel the necessity of closed sessions. Numerous proposals are changed in negotiations; and if we had to respond to our membership each time, it would make discussion impossible. Such bickering should be avoided. We feel both sides have the right to private caucus. However, we don't feel it goes far enough.

TOM SCHNEIDER, MPEA--We don't have any problem with the process; but, the employer's side has to have some privacy - so, we don't mind. I think some of Don Judge's comments are justified; but at this point, I think the sponsor should be spoken with.

DUANE JOHNSON, Personnel Division, Department of Administration--I have special interest in this. I put in the bill in '75 to strike the statute. At the time we wrote the feature of private caucus, the school board caucus was overlooked - I have been reminded of that many times. I assure you, it was not my intention. Had we studied our bill more carefully, this bill would not be necessary. I recommend that you give a DO PASS. Between the school boards and the unions, the unions have the gun on them because they have the right to private caucus - and the school board does not. The public's right to know is really not dissipated by the fact that unions and management need the right to private caucus.

DAN MIZNER, League of Cities and Towns--Running the risk that you might think there's something wrong with this if I testify - I support this.

SAM GILLULY, Montana Press Association--We have no objection to Section 5, which calls for strategy sessions. The 1972 Constitution goes into privacy. Now, a public board is in the fish bowl; and is not necessarily due private sessions. When you close meetings dealing with public funds, you open yourself to funny dealings. See attachment #8 for the remainder of Gilluly's testimony.

SOUTH--About the amendment, I would have no problems with it personally; but, if it is put in, I feel it would be detrimental to the bill, and would possibly encourage a DO NOT PASS. I would like to have Line 1, page 2 amended to put "individual" back in.

MULAR-Are school boards prohibited from having realtors on them? SMITH-No, but they are forbidden from using the board to further their own interests. The realtor cannot act as broker for the board. MENAHAN-What benefit will citizens derive from the press sitting in on these sessions? GILLULY-It depends upon how you look at it. Any time you are dealing with public funds on a public board, it should be open. When you have an informed public it is good for everyone. MENAHAN-When the board agrees, doesn't the information come out anyway? GILLULY-Yes. MENAHAN-How has the press affected your negotiations? JUDGE-We invited the press to some meetings, and they came and heard what they wanted to hear, and then left. If the press were mandated to stay until the end, I think they would be in support of this. They print reactionary news. The public is entitled to know how many people slept through the session in addition to the outrageous activities.

CHAIRMAN BRAND ANNOUNCED THAT COMMITTEE MEETINGS WOULD BE HELD AT 9:00 A.M. FROM NOW ON. Lien expressed opposition due to the conflict of Taxation and State Ad. BRAND-The leadership has said we will be going on the floor earlier, and the meetings are all being moved up.

#### EXECUTIVE SESSION

HB 322-BRAND-The sponsor wants this transferred to Business & Industry, we thought it was doing away with the board completely. Bardanouve so moved, and the motion was carried unanimously.

HB 248-JUDGE-Accumulated sick leave can be used in less than a day. RYAN-What we are doing is punishing the person for wrong doing, and we not only are punishing him by termination, but also taking more days away. My interpretation is that if he is gone 10 days, then fine him 10 days. JUDGE-This bill says that a man can be charged for time abused by taking sick leave away, therefore disallowing the employer the right to take salary. RYAN-From where I sit, the greatest abusers of sick leave are older people who are nearing retirement, and want to use it. This is something that mainly happens with older, upper eschelon employees, and what we are giving them is more protection to abuse.

Bardanouve moved DO NOT PASS, the motion carried, with Mular, O'Connell, Turner, Robbins, and Menahan voting no.

HB 249-Bardanouve moved DO PASS. Mular made a substitute motion of DO NOT PASS. MENAHAN-I think we should give the school board the chance to meet in private. Lien made another substitute motion to defer action until the other open meetings bill came in - this motion carried, with Bardanouve voting no.

HB 263-O'Connell moved DO PASS. MULAR-Is there any way an actuary could measure or give us an idea of the minimum cost? SAMPSON-He says the best way to do it is to base it on what happened previously. TOWER-Would this bill cause more turnover like Blehm suggested? BRAND-If more people take advantage of this, I can see where the fund will be depleted - but, how much effect that will have, I don't know. BARDANOUE-We are doing something we have done for years - (he told a story about a Louisiana senator amending similar sections in their state law without sound actuary advise) and this is something we should know more about. RYAN-This must cause depletion somewhere along the line. I have real difficulty with this. MULAR-Could we pass executive action, and get the cursory report of the past impact? O'Connell withdrew her motion. TOWER-I would like to see it with a report at 50 and 60 years. MULAR-This is the firemens' fund, not PERS. I will move that we

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pass consideration until two actuary reports can be presented. MENAHAN-Is this guy the only one that can do this? BRAND-What about something from Nachtsheim? BARDAN-OUVE-I don't know how quickly this can be done; but PERS uses a firm in Seattle that is not connected with anyone, and they could give us a clean report. RYAN-We must look to the protection of the firemen. BRAND-Yes, this could draw off the long term firemens' pensions. MULAR-I move that a subcommittee be appointed. The motion carried, with Lien, Smith, Kropp, and Feda voting no. Chairman Brand appointed the subcommittee, with Mular as chairman, along with Menahan and Tower.

MEETING ADJOURNED - 11:45 a.m.

  
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Joe Brand, Chairman

  
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Anita C. Sierke, Secretary