

The meeting was called to order by Chairman Brand, roll was taken--with Lien still in Taxation, Bardanoue in an Institutions Subcommittee meeting, and Menahan just not in yet.

Dick Hargesheimer presented his summary, see attachment #1.

HB 335--Rep. O'Connell, sponsor--The Highway Patrol currently isn't under PERS, they have their own system. I want to amend this to be retroactive to the beginning of the 1977 session.

LARRY NACHTSHEIM, Director, PERS, Department of Administration--(He read the amendments presented, see attachment #2) The reason for these amendments--presently, legislative members can just be paid by the legislature, and have it transferred into PERS. This gives the Highway Patrol the same option. Patrolmen elected to the legislature should be near to retirement, and shouldn't take a cut in salary in the last three years. Until 1975, public employees hadn't come into the legislature. As a retirement measure, this works well.

TOM SCHNEIDER, Director, MPEA--We represent the highway patrol and the game wardens. We are also the organization that wrote the act that included legislators in PERS. If this bill dies, Kerry couldn't get credit in PERS. A break in their retirement service could be detrimental. This is not just a Kerry Keyser bill - we support the amendments; especially the one that makes it retroactive. Without this there would be a one month break in service.

TURNER--Can any bill be made retroactive? SCHNEIDER--Anything can, depending upon the intent. Punishable crimes can't be. FEDA--Who pays the state's share? NACHTSHEIM--If the highway patrolman selects to have his salary based on his legislative pay, the legislature pays it. If it is based upon his patrolman pay, then they pay it. FEDA--Who pay for the teachers? NACHTSHEIM--The legislature does; and it is then paid into PERS. There's a bill in to have it taken from the teacher's retirement. MULAR--During his leave, is there a patrolman hired in his place? SCHNEIDER--No, it's similar to sick leave and vacations. Unless they open a permanent slot, and train them, there is no hiring. MULAR--You said there would be no burden in reciprocity, how's that? NACHTSHEIM--Because if he were still in the patrol, the state would be paying any way. For his time in the legislature he takes annual leave. TURNER--What if he serves on interim committees? NACHTSHEIM--It would be as if he were on annual leave, and if he goes on a non-pay status, then he gets nothing. HARGESHEIMER--They aren't paid expenses to come to a meeting if they are a state employee, only as a legislator. SCHNEIDER--Under the bill passed two years ago, they are not required to take vacation. RYAN--I'm a parole officer, and have made 6 trips to Helena, and each time I have had to take annual leave. TURNER--Why didn't you include all of the services in this bill? NACHTSHEIM--I agree, but I wasn't directly involved in drafting this. FEDA--Couldn't we draw up a committee bill to take care of all of them? NACHTSHEIM--If you could give us till next Wednesday, I could give you a draft to include all of them. BRAND--We can leave this in committee and let it die, so we can draw up another bill. Schneider and Nachtsheim can get together and do it. Otherwise, this might be taken as a special interest bill. RYAN--Can't you say state employees? SCHNEIDER--No, they are under different programs.

HB 382--Rep. Burnett, sponsor--I called the County Attorney to ask about this, and he said that if I wanted his advice, I would have to pay for it. The law doesn't specify that the county attorney give advice for anything other than specified business. He felt he was being paid by the state and the county, and shouldn't give advice to anything other than boards and commissions. County Attorneys prior to this one had done

some, but this guy's law practice increased so much that he decided not to do it any more.

MULAR--Would this cause a contradiction between the county attorney and the city attorney? BURNETT--Any city that isn't incorporated has to request help from the county attorney. MULAR--I can see your problem in rural towns, but in cities I am afraid the attorney would run into constitutional problems. BURNETT--The Attorney General has said that he saw no overlap. MULAR--Would you object to our having this transferred to Judiciary? O'CONNELL--I think of the areas in the city where you don't go to the city attorney for advice. BURNETT--That is why this is worded as such. One of the incorporated towns did request something of the county attorney, and he said it wasn't included in the law--and thus was not required to do it. They just get to the point where their law practice gets so big that they have to take a partner. I asked only for a verbal opinion. For a written opinion, you have to go to the county attorney to get a written opinion from the Attorney General. A commission appointed by the County Commissioners is not spelled out in the present statute, and thus must be added.

HB 392--Rep. Tower, sponsor--It has been called to my attention that in an effort to solve a problem, I created more. I need some time to get amendments in order. BRAND--Sure, how about next Thursday? TOWER--Thank you Mr. Chairman.

HB 359--Rep. Lynch, sponsor--A few years back we transferred the federal/state coordinator into the Governor's office, but he could do better in DCA. Of course, this move requires repealing the section.

ROBERT LOHN, Governor's Staff Attorney--(Mr. Lohn apologized for his erroneous accusation concerning closed executive sessions on January 27) This is just an administrative action, very simple.

HB 328--Larry Nachtsheim for Rep. Menahan--There have been two problems--the big thing is mail. We belong to the Department of Administration, and there's a Board of Administration. The intention is just to call it the Public Employees' Retirement Board because a single board with one title could serve them just as well as 5 boards.

TOWER--Are all of the boards administering the same funds? NACHTSHEIM--The teachers' retirement board is different.

EXECUTIVE SESSION

BRAND--Do we have any subcommittee report on HB 302 and HB 249? MULAR--No. KANDUCH--We will meet on adjournment today.

HB 328--Mular moved DO PASS, Feda seconded, and the motion carried unanimously.

HB 335--O'Connell moved that this be passed for more inclusion, Kropp seconded, and the motion carried unanimously.

HB 359--Robbins moved DO PASS, Mular seconded, and the motion carried unanimously.

HB 382--Mular moved that the bill be transferred to Judiciary. MULAR--I feel "public subdivision" is too broad, and this could cause problems. If this could be more

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specific to deal with local government courts - and Judiciary could do this. I don't think we asked about this conflict. ROBBINS-Last session we passed a bill allowing the county attorney to be the city attorney with no objections. MULAR-The County Attorney has jurisdiction over the county, and the City Attorney only has jurisdiction in the city. SMITH-I don't believe we need this - it sounds like a personal problem. RYAN-I can empathize. They probably had a part time county attorney, and he likes the pay, but doesn't like taking the responsibility. I have seen county attorneys space things off in criminal matters until they go away. MEYER-I agree. FEDA-But this isn't addressing that.

HB 382-Feda moved DO NOT PASS, Kanduch seconded. FEDA-I think you can go to the Attorney General and get an opinion; and you can do that without this law. ROBBINS-Before the Attorney General can give advice to a private individual, the person has to write a letter to him explaining what question they have. RYAN-I feel there's a problem, and here we are giving them another out in their own language. KROPP-I don't think this is such a bad bill.

The DO NOT PASS motion failed, with Brand, Kanduch, Robbins, Feda, and Smith being the only ones in favor. Mular made a motion that the bill be transferred to Judiciary, which carried with Feda, Robbins, and Brand voting no.

Lien came in from Taxation in time to move adjournment, and request that he be removed from the subcommittee on HB 302 and HB 249. The Chair appointed O'Connell as the new Chairman.

Chairman Brand reviewed the list of bills still in committee, see attachment # .

MEETING ADJOURNED - 11:30


Joe Brand, Chairman


Anita C. Sierke, Secretary