

MINUTES OF THE MEETING  
SENATE STATE ADMINISTRATION COMMITTEE  
FEBRUARY 23, 1977

The meeting was called to order by Senator Towe, Chairman, at 11:00 a.m. in Room 410 of the Capitol Building. Members of the committee present were Senators Towe, Brown, Roskie, Story, Jergeson, Blaylock and Devine. Senator Rasmussen was absent.

The following bills were discussed: SB 444  
HB 21  
HB 23  
HB 32  
HB 35

SENATE BILL 444

Senator Towe stated he was reopening the hearing on Senate Bill 444 for further testimony due to the short time between the time the bill was posted and heard in committee and a delay in printing.

There were no proponents.

Opponents

Joan Uda, Office of Budget and Program Planning, made several points opposing the bill. First, she felt it would centralize control of the personnel system; second, it would shift all personnel functions under control of the merit system which goes against the principles of reorganization; third, she felt the Personnel Division of the Department of Administration is presently doing an adequate job; and fourth, the bill would establish the employee appeal section in the same section as those making rules and regulations, which would be totally improper. She further stated HB 700 attacks the same problems and is much more acceptable.

Pete Byrnes, Chief, Labor Relations Bureau, presented his written testimony (see attached #1).

Pat McKittrick, representing the Joint Council of Teamsters, felt the bill is inconsistent with reclassification and stated he therefore opposed the bill.

Don Judge, representing the American Federation of State, County, and Local Employees, AFL-CIO, stated much time and effort has been expended to develop the personnel system under reclassification. He said the expertise is now being developed and a total change in the system would create more problems than could be handled. He further stated the entire bill is unworkable.

Senator Dunkle closed by urging the committee to give serious

consideration to the bill as it is an important addition to reorganization for the benefit of state employees.

#### HOUSE BILLS 21, 23, 32, 35

Representative Bardanouve, sponsor of the four bills, stated they are simply recodification bills and have no substantive changes in them and asked the committee not to make any changes of a substantive nature. He then asked the attorneys from legislative council to present the bills for him.

#### PROPOSERS

Don Judge, representing the American Federation of State, County, and Local Employees, AFL-CIO, stated he supported HB 21 and 35.

Bob Cummings, representing the Department of Administration, stated they urge support of HB 21 with no substantive changes.

Mike Young, attorney for the Department of Administration, asked the committee not to make any changes in HB 21 as a lawsuit is now in progress and any change in the word "qualified" in this section of the code could endanger the case. He urged support of the bill exactly as written.

Jim Turcotte, Assistant Administrator of the Public Employees Retirement System, stated he appeared in favor of HB 32 and 35.

#### HOUSE BILL 21

Joan Mayer, attorney for Legislative Council, reviewed the recodification changes in the bill with the committee (see attached #2).

Senator Story moved HB 21 Be Concurred In. THE MOTION CARRIED UNANIMOUSLY WITH SENATOR RASMUSSEN ABSENT.

#### HOUSE BILL 32

Joan Mayer, attorney for Legislative Council, reviewed the recodification changes in the bill with the committee (see attached # 3).

Senator Devine moved HB 32 Be Concurred In. THE MOTION CARRIED UNANIMOUSLY WITH SENATOR RASMUSSEN ABSENT.

Larry Nachtsheim, Public Employees Retirement System, stated he had thoroughly reviewed both House Bill 32 and 35 and is satisfied with both and is in favor of the bills.

The committee decided to pass the recodification bills unless there are any objections. Senator Towe will review the recodification changes with the legislative council attorneys and if any objections are raised the bill will be considered by the committee.

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HOUSE BILL 35

Joan Mayer, attorney for Legislative Council, reviewed the recodification changes in the bill with the committee (see attached #4).

Senator Blaylock moved House Bill 35 Be Concurred In. THE MOTION CARRIED UNANIMOUSLY WITH SENATOR RASMUSSEN ABSENT.

HOUSE BILL 23

John Hollow, attorney for Legislative Council, reviewed the recodification changes in the bill with the committee (see attached #5).

Senator Roskie moved House Bill 23 Be Concurred In. THE MOTION CARRIED WITH SENATOR RASMUSSEN ABSENT.

SENATE BILL 444

Senator Devine moved Senate Bill 444 Do Not Pass.

Senator Roskie felt the bill should be passed as the system is subject to many diverse pressures and it should be straightened out once and for all.

Senator Towe stated he felt the state will eventually come to a merit system, but at this late date it is hard to understand the bill thoroughly and determine its long range effects. He felt the bill should not pass on that basis.

THE MOTION CARRIED WITH SENATORS ROSKIE AND STORY VOTING NO AND SENATOR RASMUSSEN ABSENT.

There being no further business, the meeting adjourned to reconvene February 25 at 11:00 a.m.

  
\_\_\_\_\_  
Senator Thomas E. Towe, Chairman

State Administration COMMITTEE

Date 4/23/77

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

#1

NAME: Pete Byrnes DATE: 2/23

ADDRESS: 101 Mitchell Bldg, Helena

PHONE: 449-3871

REPRESENTING WHOM? Dept. Admin. Personnel Div.

APPEARING ON WHICH PROPOSAL: 444

DO YOU: SUPPORT?            AMEND?            OPPOSE? X

COMMENTS: See attached.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

#/

TESTIMONY ON SB 444

1. SB 444 has an entire series of technical deficiencies, i.e.:
  - a. ~~Page 4, lines 9-12 which eliminates the definition of "Position."~~  
~~No where else is this item picked up and by eliminating this definition from the law; classification, pay, and our entire "position control" function are needlessly jeopardized.~~
  - b. Page 8, line 16 stipulates that actual "recruiting" will be done by this new function thus bypassing the effective services now being rendered by ESD. This is again needless and certainly not cost effective.
  - c. Page 10, lines 15-19 allows this new organization to exercise dictatorial authority over all agencies in terms of the uncontrolled use of agency personnel at agency expense for the commissions own purposes.
  - d. Page 19, lines 2-7 provides that violations will result in persons being ineligible up to 5 years for employment or forfeiture of office: yet page 21, lines 5-11 stipulates that violations will result in fines up to \$1,500 and/or 1 year jail sentence.

The above are merely examples and not an exhaustive list.

2. The major problems with this Bill are that:
  - a. It flies in the face of established Legislative intent and constitutional and statutory Executive Re-Organization provisions; and

NAME:

Don Judge

DATE: 2/23/77

ADDRESS:

600 N. Cooke St. Helena

PHONE:

442-0760

REPRESENTING WHOM?

AFSCME, AFL-CIO

APPEARING ON WHICH PROPOSAL:

SB 444

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

Bill is unworkable and would create a new bureaucratic system which could or proliferate problems now being worked out

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



NAME:

Don Judge

DATE:

2/23/77

ADDRESS:

600 N. Cooke St. Helena

PHONE:

442-0760

REPRESENTING WHOM?

AFSCME, AFL-CIO

APPEARING ON WHICH PROPOSAL:

HB 21 & HB 35

DO YOU:

SUPPORT?

X

AMEND?

OPPOSE?

COMMENTS:

we have reviewed these bills and find them  
to be simple language clarifications which make no  
substantive changes. Therefore, we can support these bills.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Robert T. Cummings

DATE:

2-23-77

ADDRESS:

Helena Mt -

PHONE:

442-7830

REPRESENTING WHOM?

Dept of adm -

APPEARING ON WHICH PROPOSAL:

HB-21

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE: 2-23-77

ADDRESS :

PHONE :

## REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

## SUPPORT?

**AMEND?**

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

#2

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OSCAR KVAALEN

PAT MCKITTRICK

ROSE WEBER

EXECUTIVE DIRECTOR

PAMELA DUENSING

ADMINISTRATIVE ASSISTANT

ROBERTA MOODY

SUPERVISOR, ALTER SYSTEM



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DIANA DOWLING

DIRECTOR, LEGAL SERVICES;  
CODE COMMISSIONER

ROBERT PERSON

DIRECTOR, RESEARCH

LC 0026

1977 Legislature  
Code Commissioner Bill - Summary

House Bill No. 21

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO DEFERRED  
COMPENSATION PLANS FOR PUBLIC EMPLOYEES.

(This summary does not include discussion of routine form or  
grammatical changes)

Section 1. 68-2701. Deferred compensation programs per-  
mitted. "Employees" is changed to "the employee" and "that  
employee's" to "his" for clarification.

Section 2. 68-2702. Department of administration author-  
ized to make contracts. "Agreements" is changed to "agreement",  
"employees" to "any employee", and "the employee's" to "his"  
for clarification. "These plans" in the last sentence is  
changed to "plans agreed upon under this section" for clari-  
fication.

Section 3. 68-2708. What private businesses may provide  
service. The language relating to legislative intent is  
deleted because it adds no meaning and creates doubt as to  
whether the section has any meaning at all - deleted for  
clarification.

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CODE COMMISSIONER

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LC 0029

1977 Legislature  
Code Commissioner Bill - Summary

House Bill No. 32

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO  
RETIREMENT OF AND DEATH AND DISABILITY BENEFITS FOR  
JUDGES OF DISTRICT COURTS AND JUSTICES OF THE SUPREME  
COURT.

(This summary does not include discussion of routine form  
or grammatical changes.)

Section 1. 93-1107. Definitions. In definition of  
beneficiary (now subsection (2)), delete reference to insur-  
able interest as meaningless. Department of Administration  
considers that such an interest is created by the member's  
designation. Definition of "actuarial equivalent" replaced  
by definition used in PERS, 68-1503(21), which is more accurate  
and less confusing. Definition of "fund", subsection (9),  
changed to refer to the account that actually exists; there  
is no "Montana judges' retirement fund". Definition of  
"retired judge", subsection (3), changed "person" to "judge  
or justice" to correct apparent error - beneficiaries get  
retirement allowances under 93-1123.

Section 2. 93-1107.1. Retirement system. This is a  
new section enacted to replace 93-1108, which was repealed.  
Section needed to give the system an official name.

Section 3. 93-1110. Administrative expenses. Corrected  
terminology. In subsection (2), changed "earmarked revenue  
fund" to "agency fund" to correct apparent error - see 68-  
1503(6).

Section 4. 93-1111. Payments into fund. Deleted "of  
the Montana judges" - incorrect and superfluous. Deleted "in  
the amount hereinafter specified" - superfluous. Changed  
"under this account" to "in the fund" and "Montana judges'  
retirement fund" to "fund" - consistency in terminology. "fund"  
is defined. Changed "secretary ... (PERS)" to "public ...  
administration" - accord with actual practice, no secretary

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LC 0025

1977 Legislature  
Code Commissioner Bill - Summary

House Bill No. 35

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO COVERAGE  
FOR PUBLIC EMPLOYEES IN MONTANA UNDER FEDERAL SOCIAL SECURITY.

(This summary does not include discussion of routine form or  
grammatical changes.)

Section 1. 59-1102. Definitions. In subsection (b), the  
internal reference to 59-1102.1(b) has been changed to 59-  
1102.1(c) to correct an error which arose when 59-1102.1 was  
amended by Section 2, Ch. 22, L. 1974, which redesignated  
subsection (b) as subsection (c). In turn, 59-1102.1(c)  
has been changed to 59-1102.1(5) since 59-1102.1 is being  
amended and it's subsections renumbered again.

Section 2. 59-1102.1 Referendum and certification.  
Former subsection (b) has been incorporated into subsection  
(1) and the reference to "the metropolitan police, retire-  
ment system of the various cities of Montana" changed to  
"each municipal police reserve fund and each unit of the  
statewide police reserve fund of the state of Montana" in  
order to update the terminology, make provision for the  
newly created statewide fund, and make it clear that each  
unit is treated separately. "Portions" near the end of the  
first sentence becomes "positions" to correct an apparent  
error.

Section 3. 59-1104. Plans for employees of political  
subdivisions. In subsection (4)(a) formerly (c)(1), the  
internal reference to 59-1102.1 is changed to 59-1103. The  
original session law, Sec. 4, Ch. 44, L. 1953, referred to  
section 3 of that act, which became 59-1103. However, Ch 270,  
L. 1955 purported to amend Ch. 44, L. 1953 -- 59-1103 was  
moved from section 3 of the last act to section 4 and the  
new section 3 of the act became 59-1102.1. Through an over-  
sight, the internal reference in 59-1104 was not changed.  
It is being amended now to correct the oversight.

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LC 0056

1977 Legislature  
Code Commissioner Bill - Summary

House Bill No. 23

FOR THE GENERAL REVISION AND CLARIFICATION OF LAWS RELATING  
TO STATE FINANCE.

(This summary does not include discussion of routine form or  
grammatical changes.)

Section 1. 78-1018. Changes the words "interest and  
sinking fund" to "account within the sinking fund in the  
state treasury" to conform to treasury fund structure pro-  
vided for in 79-410.

Section 2. 78-1019. Changes the words "state board of  
land commissioners" to "board of investments" to conform to  
82A-204. Substitutes "79-310" for "81-1001 and 81-1006"  
which sections have been repealed. 79-310 is similar in  
effect to 81-1001 and 81-1006 in that it restrains invest-  
ment in revenue bonds.

Section 3. 78-1028. Changes the words "interest and  
sinking fund" to "account within the sinking fund in the  
state treasury" to conform to treasury fund structure pro-  
vided for in 79-410.

Section 4. 78-1029. Changes the words "state board of  
land commissioners" to "board of investments" to conform to  
82A-204. Substitutes "79-310" for "81-1001 and 81-1006"  
which sections have been repealed. 79-310 is similar in  
effect to 81-1001 and 81-1006 in that it restrains invest-  
ment in revenue bonds.

Section 5. 79-208. Delete ". . . and in the manner set  
forth in section 79-801". 79-801 has been repealed.

Section 6. 79-305. Delete "as part of the long-term investment fund or the short-term investment fund, depending upon when the principal of such funds may be required". A long-term or a short-term investment fund are not among those enumerated by 79-309. The notion of considering when the principal of the invested funds may be needed is covered by 79-308(2).

Section 7. 79-603. Substitute "board of investments" for "state depository board". Depositories are designated by state treasurer and approved by board of investments. See 79-301 and 79-306.

Section 8. 79-1012. Substitute "who shall perform the duties assigned by law or by the governor." for "whose duty it shall be to carry out the provisions of this chapter." "Chapter" after recodification would not include all sections with duties of budget director, therefore more inclusive language is necessary. 79-2603 established 7% as maximum rate of interest for most bonds of political subdivisions. Interest rates on bonds of the state have been set by statute authorizing the bond.

Section 9. 79-2707. Delete "as provided in appropriation acts" as being surplusage.

Section 10. 82-1117. Substitute "may" for "must" each time "must" appears. "No...may" denies authority to act on claims in which member has an interest which is the desired result. "Must" means "is not compelled", which is incorrect in this context.

Section 11. Repealers.

59-705. Calls for a semiannual report which is not being made. Subsequent to enactment of 59-705, 82-110 was passed. It required that the department of administration prescribe uniform accounting and reporting for all state agencies. Semiannual reports are obsolete in the present system.

78-737 through 78-746. Capitol remodeling authorized by sections is complete. No bonds are outstanding. Future remodeling is within definition of building in the long-range building program.

78-1001 through 78-1010. Construction of employment security commission office building is complete. No obligations remain from that construction.

78-1202, 78-1203, 78-1209. These sections were not repealed at time of repeal of remainder of Title 78, chapter 12 relating to construction of Supreme Court building in



that an architect had been hired and land had been located if not purchased. Neither obligation remains. These sections can therefore be repealed. Remainder of Title 78, chapter 12 still appears in code though repealed by Sec. 8, H.B. 2, Extraordinary Session Laws 1971.

79-110. State auditor named ex officio investment commissioner in 15-2001.

79-802. 79-2314 gives legislative auditor authority to examine treasurer's books. Office of state examiner no longer exists. Sec. 176, Ch. 431, L. 1975. Board of Examiners' duties are limited by 82A-203, which duties do not include inspection of treasurer's books. Governor has access to records of treasurer via department of administration. 82-110(6).

79-811, 79-812. 79-2314 gives legislative auditor authority to examine treasurer's books. Board of examiners' duties are limited by 82A-203, which duties do not include those enumerated in 79-811, 79-812.

79-1102, 79-1103, 79-1104. Requirement of notice to board of investments of bond sales of political subdivisions is obsolete. Board of investments would not invest in tax-free bond issues due to low yield. Their appeal on bond market is tax-free nature. Thus, the notice is not useful and becomes an unnecessary burden to political subdivisions.

79-1603. Approval of applications for federal assistance program funds has been provided for most recently by 79-2706 as part of the Federal Assistance Management Act, therefore, in that 79-1603 duplicates portions of that act, repeal is recommended.

Title 79, Ch. 17. Title 79, chapter 17 contains provisions generally relating to a preference for amortization over serial bonds, matters to be considered on bids for bonds and a maximum interest rate, the delegation of fiscal agents by the governor, the notice and manner of sale and redemption of bond issues of state, county, city, town, school district, or other taxing unit. In perusing grants of bond issuing authority to airport authorities (1-917), municipalities (Title 11, Ch. 23 and Ch. 24), parking commissions (Title 11, Ch. 37), school district and county school bonds (Title 75, Ch. 71), water conservation districts (89-109), and irrigation districts (89-1705, etc.), it was found that form of payment and manner of execution and sale (including designation of fiscal agents) were left to the discretion of the authority issuing the bonds; where preference between amortization and serial bonds was noted, the preference was weaker than that contained in 79-1702; and rates of interest were set by the statute authorizing the bonds.

In addition, 79-2603 establishes 7% as the maximum rate of interest for most bonds of political subdivisions.

Research shows that no amortization bonds have been issued by the state, nor has the governor designated a fiscal agent. More recent legislation dealing with designation of fiscal agents and the form and manner of sale of state bonds has left such matters to the discretion of the board of examiners. For these reasons the chapter is both obsolete and redundant and nothing is lost by its repeal.

79-2701. Portions of act are intermingled with other sections, thus title is no longer applicable to sections as recodified.

82-1104. Substantive provisions of act referred to in this section have been repealed. Sec. 101, Ch. 199, L. 1965, thus section has no effect.

82A-209. Depository banks are currently designated by the state treasurer and approved by the board of investments. Previously, depository banks were approved by the depository board. This change was made pursuant to 82A-209(3). The depository board has no functions remaining since that change, therefore repeal is recommended.