

STATE ADMINISTRATION
JANUARY 12, 1981
RM 436

The meeting of the State Administration Committee was called to order at 8:00 a.m. on January 12, 1981 with Chairman Jerry Feda presiding. All members were present except Representative Pistoria who came in toward the end of the meeting.

Chairman Feda opened the hearing on House Bill 48.

HOUSE BILL 48 SPONSOR, Representative Eudaily, introduced the bill to the committee. This bill requested by the Teachers' Retirement Board, amends the definition of average final compensation used to calculate benefits in the Teachers' Retirement System. He explained the changes in the bill on page 2, line 11 through 22.

PROPONENTS: (copy of testimony submitted 1/13 is attached)

ROBERT "BOB" JOHNSON, testified in support of HB 48 on behalf of the Teachers' Retirement Assoc. Mr. Johnson explained why he felt the current system of compensation needed to be changed. He gave an example as follows: "A member who has 25 years of service and receives a lump sum payment of \$6,000.00, will receive an additional \$69.44 per month in his retirement benefit. The cost to the employee is 6.187% on that \$6,000.00 or \$371.22. The employer will pay 6.312 or \$378.72. Therefore the total contribution received by the system is \$749.94. The annual cost in benefits to the system is \$833.28. Therefore for the first year of retirement the member is recovering both the employee and employer contributions. The life expectancy of a member at age 60, which is the normal retirement age in the teaching profession, is 18.76 years. This means an individual is going to draw a benefit for an additional 17.76 years which is not funded. An evaluation in 1979 disclosed that the amortization period for the unfunded liability of the Teachers' Retirement System increased from 43.75 years to 48.10 years. Severance pay was the most significant factor in the increase. Since 40 years is a commonly accepted period for amortization of an unfunded liability, the Teachers' Retirement board felt that the only responsible action is to halt practices which are threatening the financial integrity of the system."

HAROLD WINNIS, Teachers' Retirement board of Great Falls, arose in support of HB 48 and concurred with Mr. Johnson's testimony. He stated that it would be irresponsible not to do something about this problem now before it gets out of control.

ELTON HENDRICSON, arose in support of HB 48. He stated that this bill would not take away any of the employee benefits but would just pace the amount of the payments.

G. V. ERICKSON, Montana Retired Teachers' Assoc., spoke in favor of the bill. He said that if school districts favor giving severance pay, it is that districts responsibility. He concurred with other proponents testimony.

ALVE THOMAS, Office of Public Instruction, stated that he concurred with other supporting testimony.

OPPONENTS:

JOHN ASTLE, president of the Butte Teachers' Union, gave testimony in opposition to House Bill 48. A copy of his testimony is attached and is EXHIBIT 2 of the minutes.

OWEN NELSON, Montana Education Assoc., arose in opposition to HB 48 stating that because this is earned compensation full benefits should be available.

REPRESENTATIVE FRITZ DAILY, Butte, stated his opposition to House Bill 48. He said that the bill has inadequacies because the administrators work 12 months and teachers work only 9 months.

Chairman Feda opened the hearing to questions from the committee. Discussion followed.

Representative Eudaily closed the hearing on House Bill 48.

Chairman Feda opened the hearing on House Bill 64.

REPRESENTATIVE EUDAILY, HB 64 SPONSOR, explained the bill to the committee. This bill provides that a candidate, during the elections, may use his campaign funds only for his campaign expenses. After the elections, he must report the disposition of any unused funds. Representative Eudaily said that one of the reasons for the bill is because many times a candidate gives money to another candidate and the person who originally sponsored the money may not want his money going to support another candidate. He said this is a loop-hole that can deviate the views of a candidate in the eyes of the public.

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MARGARET DAVIS, League of Women Voters, arose in support of House bill 64 and concurred with Representative Eudaily.

OPPONENTS:

There were no opponents present for House bill 64.

Chairman Fedá opened the hearing to questions from the committee.

Representative Spilker questioned the words "disposition is reported." on page 2, lines 12 and 13. Discussion about what would have to be reported followed.

Representative Eudaily closed the hearing on House Bill 64.

Chairman Fedá opened the hearing on House Bill 74.

HOUSE BILL 74 SPONSOR, REPRESENTATIVE HAL HARPER, introduced the bill to the committee. A summarization of the bill is attached and is part of EXHIBIT 1 of the minutes.

DAVID NISS, Legislative Council, was available to answer questions for the committee.

PROPONENTS

There were no proponents present for House Bill 74.

OPPONENTS

JOHN NORTH, Dept. of State Lands, arose in opposition to HB 74. He stated that the department had questions about the constitutionality of Section 6, sub-section 2, of the bill. He went thru the section and explained his objections to the committee.

DAL SMILIE, Dept. of Social Rehabilitation Services, gave testimony in opposition to House Bill 74. He submitted testimony to the committee which is attached and is EXHIBIT 3 of the minutes. He also stated that this bill could need a fiscal note.

Chairman Fedá opened the hearing to questions from the committee.

David Niss of the Legislative Council answered questions concerning Section 6 of the bill. Discussion followed.

Representative Harper closed the hearing on House Bill 74.

Chairman Feda opened the hearing on House Bill 88.

HOUSE BILL 88 SPONSOR, REPRESENTATIVE JOHN VINCENT, introduced the bill to the committee. This bill, requested by the Legislative Council, provided one free set of the Montana Code Annotated to each newly elected and returning legislator and reserves 50 sets of the code for legislative committees. The total cost for this would be approximately \$25,000. Representative Vincent said that he thought it would be less. This money for the codes would be paid out the the revolving account which funds come from the sale of codes to the public and from private companies. No money would come out of the general fund.

PROPOSERS

There were no proposers present at the hearing.

OPPOSERS

There were no opposers present at the hearing.

Chairman Feda opened the hearing to questions from the committee.

Representative Spilker thought that it was probably not necessary to mail out copies to newly elected legislators since they would be able to pick them up during the caucus.

Representative Holiday said that she used the code books frequently during December and thought that having them earlier would be very useful.

Brief discussion followed.

Representative Vincent closed the hearing on House Bill 88.

Chairman Feda opened the hearing on House Bill 90.

HOUSE BILL 90 SPONSOR, REPRESENTATIVE QUILICI, introduced the bill to the committee. This bill, requested by the Dept. of Natural Resources and Conservation, extends the length of an energy emergency condition declared by the Governor from 14 to 60 days.

Representative Quillici explained that the present 14 days is not enough time to collect all the information needed in an emergency situation. It does not give adequate time to evaluate the effectiveness of measures taken.

PROPOSERS

DON ALLAN, Montana Petroleum Assoc., spoke in favor of House Bill 90. He gave examples of situations in the past where more time was needed to evaluate emergency steps taken.

LEO BARRY, Dept. of Natural Resources, arose in support of House Bill 90.

OPPOSERS

There were no opposers to House Bill 90.

Chairman Feda opened the hearing to questions from the committee.

There was little discussion by the committee on this bill.

Representative Quillici closed the hearing on House Bill 90.

EXECUTIVE SESSION

HOUSE BILL 90

Representative O'Connell made the motion that HB 90 DO PASS. Representative Sales seconded the motion. Question called, a vote was taken and carried unanimously that HB 90 DO PASS.

HOUSE BILL 64

Representative Spilker made a motion that HB 64 DO NOT PASS. Representative Kanduch seconded the motion. Following discussion, question being called, a vote was taken and carried unanimously that HB 64 DO NOT PASS.

HOUSE BILL 88

Representative Dussault presented amendments to the bill to the committee. A copy of the amendments is attached and is EXHIBIT 4 of the minutes.

Representative Dussault moved the amendments. Representative Sales seconded the motion. Vote carried unanimously.

Representative McBride made the motion that HB 88 DO PASS AS AMENDED. Motion was seconded by representative Kanduch. Following discussion, question called, a vote was taken and carried unanimously that House Bill 88 DO PASS AS AMENDED.

HOUSE BILL 48

Representative Sales moved that House Bill 48 DO PASS. Motion was seconded by Representative Spilker. Discussion followed. Question called, a vote was taken and carried with 16 YES and 3 NO. Representatives Pistoria, O'Connell and McBride voted NO.

HOUSE BILL 74

It was suggested by the committee that a sub-committee be set up for Administrative Code Bills. It was decided that HB 74 be put into this committee.

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EXECUTIVE SESSION (CONT.)

Discussion was held concerning HB 38, heard in committee on January 9, 1981. This bill received a DO NOT PASS AS AMENDED.

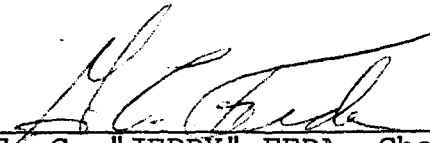
Representative Mueller moved that HB 38 be reconsidered by the committee. Motion was seconded by Representative Kanduch. Vote was unanimous to reconsider action on HB 38.

Representative Smith made the motion to set up a sub-committee. The motion carried unanimously.

Chairman Feda appointed representatives Sales, Mueller and Kanduch to the committee.

A motion was made to adjourn. Meeting adjourned at 10:30 a.m.

Respectfully submitted,



G. C. "JERRY" FEDA, Chairman

Cathy Martin, Secretary

HOUSE STATE ADMINISTRATION

BILL SUMMARIES

January 12, 1981

- HB 48 (EUDAILY): This bill, requested by the Teachers' Retirement Board, amends the definition of average final compensation used to calculate benefits in the Teachers' Retirement System. It requires that if a teacher has earned compensation during the three consecutive years of full-time service which yield the highest average includes termination pay or any lump sum payment for time not worked, this amount must be divided by the years of service with the employer who paid this compensation and then added to each of the three years' salary.
- HB 64 (EUDAILY): This bill provides that a candidate, during the elections, may use his campaign funds only for his campaign expenses. After the elections, he must report the disposition of any unused funds.
- HB 74 (HARPER): This bill, requested by the Administrative Code Committee, revises the administrative rule-making laws relating to the mailing of special notices, contents of notices, use of contested case procedure, failure to comply with deadlines, notice of committee function, differences in proposed and amended rules, implementation and authority sections, implementation of governing board policy, amended or supplemental notices of rule-making, recommendations by committee, written recommendations for rule-making, committee's authority to initiate

BILL SUMMARIES

Page 2

January 12, 1981

litigation, lack of legislative objection, and report of litigation.

HB 88 (VINCENT): This bill, requested by the Legislative Council, provides one free set of the Montana Code Annotated to each newly elected and returning legislator and reserves 50 sets of the code for legislative committees.

HB 90 (QUILICI): This bill, requested by the Department of Natural Resources and Conservation, extends the length of an energy emergency condition declared by the Governor from 14 to 60 days before it is terminated, unless the legislature continues the condition.

HSP

jim/1/12/81

I'm John Astle, president of the Butte Teachers' Union. I'm here with ~~the~~ other officers of the union on behalf of the teachers in Butte to oppose House Bill 48.

The teachers in Butte negotiated sick leave over 20 years ago. Today the sick leave benefit amounts to 15 days per year, with the balance ~~xxx~~ not used each year allowed to accumulate to a maximum of 150 days. One-half of this balance, ^{to a maximum of} ~~75~~ 75 days, is payable on retirement as severance pay.

This severance pay is averaged in with the highest three years to determine the teacher's retirement benefit. This has been part of the teachers' retirement for over 15 years. It is a past practice, an expected benefit, and a legal benefit as determined by Attorney General Mike Greeley.

When the teacher receives this earned compensation on his or her retirement the member's 6.187% and the employers 6.312% is paid into the Teachers' Retirement System on this money.

The sick leave/severance pay is a fringe benefit that was negotiated by the Butte Teachers over the past 15 years in lieu of salary. It is a benefit that other Montana teachers are also beginning to negotiate into their contracts. Approximately 48% of the teachers ^{in Montana} have some kind of severance pay in their contracts.

In 1978 the Teachers' Retirement Board asked Attorney General Greeley for an opinion on contracted and noncontracted severance and accumulated leave payments and whether it was earned compensation. The ruling stated, referring ~~to sections 75-6201 to 75-6208~~ to 75-6201 revised codes of Montana, 1947:

1. "Contractual severance payments and payments based on unused sick or vacation leave are earned compensation of a member of the Teachers' Retirement System for the year in which they are actually paid to the member, provided they are properly reported to the system."
2. "Severance payments or retirement stipends which are not provided for by contract and are unrelated to length of service or accumulated sick or vacation leave are not included in a member's earned compensation in the Teachers' Retirement System."

-2-

The Butte teachers' severance pay is in the master contract negotiated with the school district, it is based on the unused sick leave, ~~it~~ it is earned compensation as defined in the law, and it is a legal retirement benefit under the Montana Teachers' Retirement System.

House Bill 48 says that the severance pay compensation "must be divided by the total number of years of creditable service with the employer from whom this type of compensation was received to determine a yearly amount." That means if a teacher works 30 years in a school district that has severance pay, the earned compensation will be divided by 30, when in fact it was earned in much less time, closer to 12-15 years. Also, a teacher who teaches his or her last 10 or 12 years in a district that has severance pay only divides the earned compensation by 10 or 12.

This discriminates against a teacher who spends his or her entire career in one school district, and it also discriminates against a teacher who receives severance pay, because no other earned compensation as defined in the law is subject to being divided by the total years of creditable service.

The bill also discriminates against teachers who have severance pay in their contracts because there are various ways, and the Retirement Board is aware of them, that other schools, colleges and universities, and districts boost a teacher's or administrator's final salary to determine retirement benefits, that are not available to the average classroom teacher in Montana.

The Butte Teachers realize that the severance pay is what the Retirement Board calls an "unfunded liability", but ~~it~~ it is not the only unfunded liability in the Teachers' Retirement System, nor was it the first. Using the highest three years to determine the retirement benefit; teaching summer school during the final three years, and bonuses to administrators are all unfunded liabilities.

There are many ways that the severance pay/earned compensation could be phased in slowly and funded with a different ^{formula} ~~formula~~ other than the way it is done in HB48, which effectively eliminates a retirement benefit that teachers have been entitled to over the past 15 years.

On the one hand teachers are being asked to accept the effective elimination of a legal retirement benefit, while on the other hand they will be asked to increase their contribution by 1%, from 6.167% to 7.167% of their ^{SALARY} ~~salary~~ to fund cost of living increase for retired teachers as presented in section 3, no. 1 of House Bill 45. The retired teachers have been told that in order to receive this cost of living increase they must take ~~it~~ away the ^{SEVERANCE} ~~severance~~ pay from the Dutte teachers and other teachers who have it in their ~~contracts~~ contracts. This is not true. They are two separate and distinct issues, and the move to tie them together is only to gain support for HB45.

To conclude, I would ask the members of this committee to take a good look at this bill. It is discriminatory, it takes away a legal earned compensation ^{RETIREMENT BENEFIT} from teachers who have been receiving it for many years, and finally, there are ~~other~~ ways ~~it~~ it can be phased in and funded.

Thank you for allowing me to testify here today.

Insert

It would take about a 1/2 of 1% increase in the monthly contribution to bring the unfunded liability to the recommended level of 70 years.

3

Testimony on HB 74
by
Social and Rehabilitation Services

2-4-302(2), MCA is proposed to be amended by HB 74. This amendment would require advance notice of rulemaking within 3 days of filing.

This agency agrees that it is important for notice to be given to interested individuals other than those that receive the Montana Administrative Register. Currently notice is mailed to individuals that request it about the same time the Montana Administrative Register is published.

This amendment would create a parallel system in which, by requesting advance notice, individuals could get copies of rules about eleven days sooner. Any responsible lobbyist would automatically request this earlier notice and forego subscribing to the Montana Administrative Register. Each agency would need to add at least one new FTE to handle the additional new functions. We believe a fiscal note is in order.

We recommend that the language be modified to read:

"...within 3 days of ~~filing~~ publication...."

This would remove the incentive for individuals to forego purchasing the Montana Administrative Register while still serving individuals who need this additional notice of rulemaking.

4

AMENDMENT TO HB 88 (INTRODUCED COPY):

1. PAGE 1, LINE 11.

FOLLOWING: "CODES --"

STRIKE: "DISTRIBUTION"

INSERT: "AVAILABILITY"

2. PAGE 1, LINE 15.

FOLLOWING: "SHALL"

STRIKE: "DISTRIBUTE"

INSERT: "MAKE AVAILABLE"

3. PAGE 1, LINE 16.

FOLLOWING: "LEGISLATURE"

STRIKE: " . "

INSERT: "FREE OF CHARGE."

4. PAGE 1, LINE 17.

FOLLOWING: "(2)"

STRIKE: ~~THE~~ "REGARDING NEWLY ELECTED MEMBERS
OF THE"

5. PAGE 1, LINE 18.

FOLLOWING: LINE 17

STRIKE: "LEGISLATURE, AS"

INSERT: "As"

6. PAGE 1, LINE 19.

FOLLOWING: "YEAR"

STRIKE: "FOLLOWING AN"

7. PAGE 1, LINE 20.

FOLLOWING: LINE 19

STRIKE: "ELECTION"

8. PAGE 1, LINE 21.

FOLLOWING: "SHALL"

STRIKE: "DISTRIBUTE"

INSERT: "MAKE AVAILABLE"

VISITORS' REGISTER

HOUSE

COMMITTEE

-ULL

SPONSOR

Date

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

LL

Date _____

HB 90

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

LL

HB 48

Date _____

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

DTLL

Date

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

St. Adam

COMMITTEE

ALL HB 88
SPONSOR _____

Date _____

SPONSOR _____

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

House of Representatives State Administration Committee

Testimony on House Bill #48

Teachers' Retirement Board

F. Robert Johnson

The Teachers' Retirement System has seen an increasing number of members retiring each year who receive some form of severance pay when they retire. This can be in the form of a lump sum payment in lieu of sick leave and vacation, retirement stipends, or an amount simply based on years of service with their employer. The amounts received in the form of severance pay have also increased and as salaries increase it is not unreasonable to expect that the amounts of severance pay will continue to increase.

The Attorney General has ruled that the Teachers' Retirement System must use these payments as an addition to their final years salary if such payments are provided by contract and based on the number of years of service. What this has done is to inflate the benefit to the member and at the same time a cost to the System. Contributions are not received on the severance pay until the last month of a retiring member's employment. For example a member with 25 years of service who receives a lump sum payment of \$6,000.00 will receive an additional \$69.44 per month in retirement benefits. He will have contributed 6.187% on the \$6,000.00 or \$371.22 and his employer will contribute 6.312% or \$378.72 for total contributions received by the System of \$749.94. The annual cost in benefits to the System is \$833.28. When you consider that the life expectancy of a male member at age 60 is 18.76 years, the resulting cost to the System is obvious.

An actuarial valuation in 1979 disclosed that the amortization period for the unfunded liability increased from 43.75 years to 48.15 years or an increase of 4.40 years. Severance pay was the most significant factor in the increases. Since 40 years is the commonly accepted period for amortization of the unfunded liability, it is apparent the only responsible action is to halt practices which are threatening the financial integrity of the System.

Some statistical figures we have developed are:

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	<u>1978-79</u>	<u>1979-80</u>	<u>1980-81</u>
Number retired	280	279	175*
Number receiving severance pay	80	112	103
Average monthly benefit increase attributable to severance pay	\$ 35.92	\$ 39.13	\$ 48.45
Highest monthly increase due to severance pay	\$179.98	\$240.65	\$209.99

We had a member in the office last week who will receive \$23,000.00 in severance pay. The increase in monthly benefit as the result of severance pay is \$371.22. The total cost to the employee and employer is \$1,451.76 for an annual benefit of \$3,833.28, while total payment to the System is \$74,863.90.

I urge your support of this bill and this concludes my testimony.