

MINUTES OF THE MEETING OF LOCAL GOVERNMENT COMMITTEE  
January 22, 1981

The meeting of the Local Government Committee was held January 22, 1981 at 12:30 p.m. in room 103. CHAIRMAN VERNER BERTELSEN called the meeting to order. All committee members were present, with the exception of Representatives HURWITZ, KITSELMAN, NEWMAN and WALDRON who were excused. Staff Researcher LEE HEIMAN was also present.

CHAIRMAN BERTELSEN opened the hearing on House Bill 184.

HB 184 SPONSOR DAVE BROWN introduced the bill to the committee. He said the purpose of the bill was to certify that trained volunteer fire fighters across the State would have to complete a course of instruction and pass a test developed by the Director of the Montana Fire Services Training School, to be eligible for pension benefits. After firemen are certified that this has been done, they would be eligible for a pension at the end of 20 years. This bill is a suggestion of the group attending the Montana State Firefighter's Convention. Mr. BROWN mentioned one amendment they'd like included. On page 1, line 6 strike 1981 and insert 1982. Do the same on page 2, line 2.

PROPOSERS of HB 184

ARTHUR J. KORN. Secretary- Treasurer of the Montana State Volunteer Firemen's Association would like this bill passed. He read a prepared statement, which is attached to these minutes. He remarked it is simply a voucher by chiefs or officers of the association certifying that firemen who have completed the one time course of instruction, passed the test and have had 20 years service, are eligible for the pension. His Association favors HB 184.

DAVE FISHER, representing the Montana Fire Chief's Association and the Montana Volunteer Firemen's Association said they have no problem with the bill and favors a DO PASS recommendation. What it does is require that anyone joining a fire department after July 1, 1982, must have this certification at one time only to receive his pension after serving for 20 years on a fire department.

R.A. ELLIS, Montana State Volunteer Fire Association, favors HB 184.

HENRY E. LOHR, Montana State Volunteer Firemen's Association, supports HB 184, as well as REP. DAVE BROWN who sponsors said bill.

OPPOSERS to HB 184.

As there were no opposers to HB 184, REP. BROWN closed the hearing. He thanked the committee and said the bill is self-explanatory. He urged that the committee give the bill a DO PASS.

QUESTIONS:

REP. SALES asked how old the Montana Training School for firemen

is and where does the money come from to maintain the school?

MR. FISHER said they were formerly under the Department of Public Instruction. At present they did not have a school as such. We are now under Vocational Technical Instruction in Great Falls. About two years ago we had troubles with the Superintendent of Public Instruction and the State. We opted at that time and asked the State Board of Public Education to assist and they put us under their Board.

REP. SALES: What is your budget?

MR. FISHER: \$186,000.

MR. SALES: Do you have any request for additional funds?

MR. FISHER: Not at the present time.

REP. HANNAH: Mr. Fisher, what is the premium tax fund on fire insurance?

MR. FISHER: We have the only fully funded pension plan in the United States. We receive five per cent of the remaining fund after everyone else has gotten what they need. We currently have somewhere in the amount of \$300,000.

REP. HANNAH: What happens if you don't have funding for the pension plan?

MR. FISHER: The plan would have to be changed to get funds from the State's general fund budget.

MR. HANNAH: Is your share of the premium fund issued yearly?

MR. FISHER: Our share diminishes every time some other department wants additional money.

REP. HANNAH: It appears to me that your pension fund may be headed in a precarious position.

MR. FISHER: The PERS people said they'd see that we get it.

REP. KESSLER: Do you receive your school funds from the State Board of Education?

MR. FISHER: Yes.

REP. DUSSAULT: Is this bill designed to improve the actuarial soundness of this program?

MR. FISHER: Yes.

REP. DUSSAULT: If an individual must have 20 years of participation in the fire department and must leave the service before that time, can he qualify for a pension?

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MR. FISHER: You can have 10 years and take vested rights, but you must have been certified.

REP. DUSSAULT: Is your real problem that people are submitting claims for the pension and falsifying the record? Do you feel that by making them take a 100 question test, that will qualify them?

MR. FISHER: Yes.

REP. GOULD: I realize that the Fire Insurance Act goes for several departments. Why isn't that earmarked revenue instead of going into the general fund?

MR. FISHER: There is funding for a number of things that go into the fund. If the money was earmarked, there would be a positive amount available. We'd be happy if the amount could be earmarked.

REP. GOULD: Has the money always gone into the general fund; I'm talking above the Fire Insurance Fund itself.

MR. FISHER: It wasn't always five pre cent; it started out at one per cent.

REP SWITZER: On the sheet you passed out, Mr. Fisher, what caused the sudden jump from \$56,000 in 1973 to \$275,000 in 1980?

MR. FISHER: Good investments. Our department is administered by the PERS System. We have bonds and as the interest accrues, the fund grows. As the bonds mature, each year, the amount is deposited in the fund.

As there were no further questions, the hearing on HB 184 was closed.

EXECUTIVE ACTION ON HOUSE BILL 184

REP. PISTORIA moved that HB 184 DO PASS with the suggested amendment changing the dates in line 6 page 1 to 1982 and line 2, page 2 to 1982.

QUESTION: All in favor of the amendment say "aye". Motion carried.

DISCUSSION PERIOD:

REP. SALES feels anyone who has been in the service of fire department for 20 years should be included in the plan without taking a test. It seems strange that anyone would falsify the records.

REP. HANNAH agreed with REP. SALES. It seems this would be a matter of perjury.

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REP. ANDREASON didn't think the above important, but feels the title is a bit misleading. From the title he said it sounds like you must take the test at the end of the twenty year period to get the pension.

STAFF RESEARCHER LEE HEIMAN does not think it would be necessary to amend the bill for this reason.

REP. HOLIDAY said since this bill came from the Volunteer Firemen's convention and since they feel it is needed, she thinks we should go along with the bill.

REP. ANDREASON moved that we amend the Title of HB 184, line 6, page 1, by striking the word "completing" and insert the words "sometime during" to clarify.

LEE HEIMAN: The title can be used to help clarify the body of an act, but it cannot be put into the codes.

QUESTION: CHAIRMAN BERTELSEN called for the question on the amendment. All committee members present voted "aye", with the exception of Rep. Pistoria who voted "no".

REP. MATSKO: If the bill is simply to stop cheating, I don't see how it will be effective. An individual could study, take and pass the test, falsify the records and get a pension.

MR. FISHER: I don't feel that is possible due to the certifications required and the number of people who must approve them.

REP BERTELSEN interjected this doesn't apply to this legislation.

REP. SALES: I feel the testing is a good idea. It should determine whether or not an individual should continue on the force for his 20 years. It should not determine whether or not he is eligible for retirement pension.

REP. MATSKO: I don't know if taking a test is the proper method to follow to get qualified people.

CHAIRMAN BERTELSEN said he agrees with Representatives Sales and Matsko that we are trying to take on a job of administration which should be handled by the fire departments. They should have the ability to decide if a man is qualified for his pension.

QUESTION: CHAIRMAN BERTELSEN called for a roll call vote on HB 184 for DO PASS AS AMENDED. ROLL CALL VOTE: "AYE" - 7 "NO" - 8

REP. SALES then moved that we DO NOT PASS HB 184 and reverse the order. HOUSE BILL 184 then received a DO NOT PASS from Committee.

HB 150: CHAIRMAN BERTELSEN reminded committee members that this is

is Dr. LORY's bill referring to first and second class counties to award separate printing contracts which may be awarded on an annual or job basis. The amendments refer to first class counties only. Second class counties are deleted.

REP. GOULD moved that HB 150 DO PASS .

REP. KELLSER moved that the amendments be read as shown on LEE HEIMAN's sheet.

AMENDMENTS: The following amendments were read by STAFF RESEARCHER LEE HEIMAN.

1. Title, line 5.

Following: "FIRST"

Strike: "AND SECOND"

2. Page 1, line 25.

Following: "may"

Insert: "and in counties of the first class, the county commissioners may"

3. Page 2, line 5.

Following: "county"

Strike: ",which"

Insert: ". This"

Following: "contract"

Insert: "or one separated under 1 (b)"

4. Page 2, line 6.

Following: "establishment"

Insert: "or establishments, as the case may be"

5. Page 2, line 9.

Following: "first"

Strike: "or second"

6. Page 2, line 10.

Following: line 9

Strike: "separate county printing needs"

Insert: "printed forms, materials, and supplies required by the counties"

REP. DUSSAULT moved that the amendments DO PASS. Committee members present voted "aye". Motion carried.

#### QUESTION AND ANSWER PERIOD:

REP. VINGER commented that printers can charge less for a job, but they cannot charge more than the amount specified by law. He said they have one paper in their county and the people there depend on this business. The reason for this bill is because Missoula has other businesses there where they could contract some of the printing out and save money. People in the smaller counties feel they should support their newspaper.

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REP. WALDRON: The ceiling only applies to the public notices that the county must print in the paper. There is no ceiling on items such as printing of letterheads, printed forms and supplies required by the county.

REP. WALDRON: The ceiling was for legal reasons.

REP. SALES: REP. VINGER, do you feel the people in your county would take their printing somewhere else?

REP. VINGER: No.

REP. SWITZER: I have county commissioners who would gladly take their printing to another county and close the current newspaper. It is very effective where they have a low level standard of the paper.

REP. GOULD MOVED THAT HB 150 DO PASS AS AMENDED.

QUESTION: A roll call vote showed 15 committee members voting "aye" with four having been excused. Motion carried.

VICE CHAIRMAN VINGER reopened discussion on HB 56.

REP. KESSLER, SPONSOR, asked that the Committee support HB 56. He commented it is totally fair. It is hard for me to see why areas surrounding a city should not be annexed and pay their fair share of the taxes. There must be some inherent advantage to being part of a city.

REP. DUSSAULT: My understanding of this section of the law is that we are amending the section which allows the freeholders to petition for annexation.

REP. KESSLER: That part of the law is true. There are two methods of annexation. There is the petition method and there is the adjacent method. All the adjacent method does is to amend that portion for petition. As the bill now stands, individuals can petition to come into the city. If a certain area petitions to be annexed to the city and the boundary of the area the people live in has an industrial complex, that portion is overridden by the veto of that industrial complex. If you have a square outside the city that wants to be annexed and if more than 51 per cent of the individuals petition to come into the city, if there is an industrial or manufacturing firm that doesn't want to be annexed, they won't be annexed (this includes the whole area that wants to be annexed).

REP. DUSSAULT: It seems they might not like it, but in some cases an industrial or manufacturing firm may want to be annexed. Even if a petition were presented to annex an area that included a manufacturing or industrial refining firm, they would still have the right to protest annexation.

REP. KESSLER: Who would have the right? The business?

REP. DUSSAULT: The business.

REP. KESSLER: Yes.

REP. DUSSAULT: Let's assume we pass this bill. An area by petition requests to be annexed. If the area includes a manufacturing purpose during that process, would not that manufacturing firm have the right to protest the annexation if we had this bill?

REP. KESSLER: They could protest it, but they could not prevent it. We're not taking away the right of protest. You can always protest. Now, when a firm protests, it blocks annexation. If we pass this bill, they can protest and say they don't want to be annexed, but if the majority of the freeholders in the area want to be annexed, the manufacturing firm could be overridden. The city could take in the whole area.

REP. SWITZER: This is an interpretation of the right of protest. The right of interpretation has the implied right to have some results when you protest. A protest where it has no effect on what happens is just conversation and I would say it takes away all the rights of protest.

REP. AZZARA: There is a difference between the right to protest and results of the protest. In the former case, if you protested at all, it constituted a veto. Even if that wasn't a part of the 51% protest, the manufacturing firm could simply say NO and override. This is the real difference between protest and veto.

REP. AZZARA: But to successfully protest, you must get a certain number of people protesting in order to override the action of the city. In this case the bill does not allow a manufacturing purpose to outweigh the effect of everybody else's protest no matter which way it goes. It simply makes them a part of the process on the same basis that everybody else is subject to.

REP. MATSKO: I've heard some talk on this bill about bringing into the city and requiring industrial areas within a city to pay taxes when they are wholly surrounded by the city. This bill doesn't address anything like that because Part 45-72-4503 specifically states that for annexation of wholly surrounded land, there are restrictions that this land shall not be annexed under the part whenever the land is used for agriculture, mining, smelting, mining transportation, etc. for any such purpose. So when we speak about the cities that have an industrial complex in the middle of the city they still, in accordance with this bill, cannot be annexed.

REP. KESSLER: Section 7-2-4303 refers to another section of the code which this act repeals.

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REP. HANNAH: Several people in their testimony referred to other annexation bills. The subcommittee has several different bills which REP. KESSLER referred to. They will work together. I wonder if there isn't some way we could consider all of the annexation bills together on one day. My vote might be swayed.

REP. ANDREASON: I feel we should delay a little longer as I think there are several other issues that need to be straightened out. I too suggest we delay any action until a later date.

REP. VINGER mentioned that some annexation bills had already gone through committee and been voted on. He said the chair will rule that some of us are not clear on what this bill does and take action later.

QUESTION: An "aye" vote agreed to hold the vote until after further discussion. REPRESENTATIVES GOULD and SALES voted "NO". Motion carried.

Meeting adjourned at 2:30 p.m.

  
\_\_\_\_\_  
Verner L. Bertelsen, Chairman

hbn

TO: The Chairman and Members of the House Local Government Committee  
FROM: Lee Heiman, Committee Counsel  
DATE: January 22, 1981  
RE: Summary HB 184

House Bill 184 adds specific training and competency requirements for volunteer firefighter pension eligibility that are administered at the state level. Current requirements, which will be retained, are a 30 hour course of instruction formulated and supervised by the chief of the fire company to which the person belongs.

## VISITORS' REGISTER

HOUSE

Local Govt

COMMITTEE

BILL

HB 184Date 1-22-81

SPONSOR

B. J. ...

NAME

RESIDENCE

REPRESENTING

SUPPORT

OPPO

ART KERN1911 S. WASHMT. ST. VOL FIRE ASSNXC. H. ELLIS1235 S. ... H. ...MT. ST. VOL FIRE ASSNX.........✓Henry E LohrBox 51 Townsend M.Y.MT. ST. VOL FIRE ASSNX.........✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Gary Gray  
Clem Duaine  
Arthur J. Korn

Belt  
Butte  
Butte

President  
Vice President At Large  
Secretary-Treasurer

Gene Darling  
Ed Tennant  
Joe Moriarity  
Joe Armstrong Nelson  
Frank Frankovich  
Lyle Stortz  
Dennis Garsjo  
Arlin Anderson

Columbia Falls  
Hamilton  
Shelby  
Bozeman  
Stanford  
Roundup  
Glasgow  
Plevna

Vice-Pres. Dist. #1  
Vice-Pres. Dist. #2  
Vice-Pres. Dist. #3  
Vice-Pres. Dist. #4  
Vice-Pres. Dist. #5  
Vice-Pres. Dist. #6  
Vice-Pres. Dist. #7  
Vice-Pres. Dist. #8

## Montana State Volunteer Firemen's Association

From the Office of  
**ARTHUR J. KORN, Sec'ty-Treas.**  
1916 So. Washington St.  
Butte, Montana 59701

Jan. 23, 1981

Statement in regards to HB 184

The pension became a reality in 1975, after the Volunteer association drafted a bill stating that after the fund reached a million dollars, we would start paying each retiree who became eligible after 20 years of service a monthly benefit, the Mont. State Volunteer Firemen's Association asked the legislative body for a amount not to exceed \$50.00 per month if possible. In the next legislative session we asked that 5% be held back to go into this fund to help build it up, and at the same time we asked for an increase to pay up to \$100.00 if possible, we also asked to put in a vested rights for up to ten years, and these items were passed thanks to the committee and the entire legislative body.

The qualifications were that each volunteer firemen must receive 30 hours of fire training every year, and this fire training could be given by any officer in their own department, or from the State Fire Training Officers. A form was provided by the Public Employees Retirement System, a copy attached. Every year before Sept. 1st every volunteer fire department that had volunteer firemen that had those 30 hours of fire training had to submit this form to the P.E.R.S. for a years credit, a grand father's clause was provided for in the first bill that for every two years of service prior to 1965 one year's credit was given, but not to exceed ten years.

So now for the last five years we have been paying pension on the number of years of service, but we also have the feeling that every firemen who gets a pension based on some service where he didn't put those 30 hours of training in is taking \$1.00 out of the pocket of everyone who did, so there should be some tighter documentations for this training, and a little more rigid handle before a retiree receives his pension.

It's something to the dedicated volunteer firemen who put in their 30 hours of fire training every year that they get the benefit they're entitled to and not reduced because some firemen or fire company just put their entire roll in there and didn't worry about whether the individual had the hours of training or not. We therefore ask your support on HB 184, WHICH IS AN ISSUE, (USE PART OF ATTACHED SHEET FOR FURTHER INFO)

Part of: ... is handled in ... The ...  
... and administered by the ...

***Dedicated to the Betterment of the Fire Fighting Service***

Arthur J. Korn,  
Secretary-Treas.

**It is not what this Association is doing for you, but what are you doing for the Association**

WITNESS STATEMENT

Name Rex L. Lister Date 1-22-51  
Address 1418 S. 2nd Street, St. Louis, Mo. Support ? ☒  
Representing Montana Nat. Resources Bd. - Helena, Mont. Oppose ? ☐  
Which Bill ? H.R. 1541 Amend ? ☐

Comments:

*Have keeping bill - to clarify requirement*

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name R. H. Ellis Date 1/24/81  
Address 1635 Sierra Highway Alt Support ? ✓  
Representing Mc. St. L. L. Government Prison Oppose ? \_\_\_\_\_  
Which Bill ? H.R. 134 Amend ? \_\_\_\_\_

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name ART KORN Date 1-22-81  
Address 1916 So WASH Support ? ☒  
Representing MONT. STATE VOL. FIREMEN'S ASSOC Oppose ? ☐  
Which Bill ? H. B. 184 Amend ? ☐

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Henry E. Lohr Date 1-22-81  
Address Box 51 Townsend, Mt. 59644 Support ? X  
Representing Mont. State Vol. Fireman's Assn Oppose ?         
Which Bill ? HB 184 Amend ?         
Comments: Better-Requirements. Set Presence. Help future. Clarify.

Please leave prepared statement with the committee secretary.

# VOLUNTEER FIREMEN's FUND

## Annual Payments from State Auditor

June 30, 1950	\$ 10,353.00
1951	12,283.09
1952	13,235.14
1953	12,145.69
1954	14,539.20
1955	14,296.79
1956	18,340.28
1957	21,509.70
1958	21,253.91
1959	21,611.66
1960	27,789.65
1961	30,197.87
1962	28,977.99
1963	32,072.85
1964	35,238.90
1965	37,001.00
1966	40,322.82
1967	43,405.50
1968	40,785.99
1969	44,853.06
1970	61,790.59
1971	58,835.39
1972	56,907.60
1973	103,237.74
1974	165,621.18
1975	94,996.00
1976	151,587.00
1977	195,970.00
1978	232,992.00
1979	243,419.00
1980	275,408.10

(To be filed on or before July First, in the office of the Public Employees Retirement System, Helena, Montana.)

I, \_\_\_\_\_, as chief of the above Volunteer Fire Department, a fire company organized in an unincorporated area, town or village in the State of Montana, hereby certify as follows:

- [illegible]

(over)



MONTANA VOLUNTEER FIREMEN OF UNINCORPORATED AREAS  
1712 Ninth Avenue  
Helena, Montana 59601

APPLICATION FOR SERVICE RETIREMENT

In accordance with the provision of Section 11-2023, R.C.M., 1947, I hereby make application for retirement from active service from the \_\_\_\_\_  
\_\_\_\_\_ Fire Company.

TO BE COMPLETED BY THE RETIRING MEMBER:

1. Name \_\_\_\_\_  
(Type or Print)
2. Address \_\_\_\_\_
3. Date of Birth \_\_\_\_\_ Age of June 30 \_\_\_\_\_
4. Social Security Number \_\_\_\_\_
5. Name of Beneficiary \_\_\_\_\_  
(wife, or children under age 18)
6. Address of Beneficiary \_\_\_\_\_
7. SERVICE CERTIFICATION

Years of service prior to 7/1/65 times 50%; lesser of 10 years, or,

Years of service after 7/1/65

From \_\_\_\_\_ To \_\_\_\_\_

Years \_\_\_\_\_

Years \_\_\_\_\_

Total \_\_\_\_\_

\*If more than one (1) fire company, please list below:

8. Applications must be filed on or before the first day of May, prior to the fiscal year ending June 30th.

I certify the above service is correct to the best of my knowledge \_\_\_\_\_

Signature of District Fire Chief

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Retiree

IF YOU HAVE LESS THAN TWENTY (20) YEARS OF SERVICE,  
PLEASE COMPLETE THIS PAGE.

The 1973 amendments to the Volunteer Firemen's Compensation Act;  
Section 11-2023, (A)-II RCM, 1947 reads as follows:

If prevented from completing at least twenty (20) years' service by dissolution or discontinuance of his volunteer fire company, or by personal relocation due to transfer or loss of employment, or by personal disability, or by other factor beyond his reasonable control, then he may qualify for partial participation if he has completed at least ten (10) years' service; in that event, he shall be eligible for only a proportion of the benefits specified in subparagraph five (5) of section 11-2022, determined by multiplying such specified benefits by a fraction, and numerator of which shall be the number of years active service completed, and the denominator of which shall be twenty (20).

Because you have not completed twenty (20) years of service, it will be necessary for you to state the reason why you feel that a pension in your behalf should be granted. If for medical reasons, a doctor's statement must be attached.

I \_\_\_\_\_, should be granted a pension  
(Name)  
for the following reason.

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\_\_\_\_\_  
Signed by Retiree

Return to: Public Employees' Retirement System  
1712 Ninth Avenue  
Helena, MT 59601

# STANDING COMMITTEE REPORT

January 22, 1931

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 184

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 19-12-401, MCA, TO REQUIRE A VOLUNTEER FIREFIGHTER COMPLETING HIS YEARS OF SERVICE AFTER JULY 1, 1931, TO COMPLETE A COURSE OF INSTRUCTION AND PASS A TEST DEVELOPED BY THE DIRECTOR OF THE MONTANA FIRE SERVICES TRAINING SCHOOL TO BE ELIGIBLE FOR PENSION BENEFITS."

Respectfully report as follows: That HOUSE Bill No. 184

DO NOT PASS

~~DO PASS~~