

STATE ADMINISTRATION
JANUARY 26, 1981
RM 436

The meeting of the State Administration committee was called to order at 8:00 a.m. on January 26, 1981, with Chairman Jerry Fedra presiding. All members were present except Representative Azzara who was absent and Representative Ryan who was excused.

Chairman Fedra opened the hearing on House Bill 197.

HOUSE BILL 197-SPONSOR, Representative Donaldson, introduced the bill at the request of the Public Employees' Retirement Board. The purpose of the housekeeping legislation is to revise and clarify the P.E.R.S. Act. Included in this bill are provisions to revise the definition section, describe the procedure for a political subdivision to terminate P.E.R.S. coverage, define the actuarial reduction for early retirement, exclude benefit adjustments in calculating disability benefits, and change the reduction in benefits for a retiree returning to limited employment. Representative Donaldson turned the testimony over to Larry Nachtsheim.

LARRY NACHTSHEIM, P.E.R.S., went through the bill by sections and explained the changes to the committee. A copy of Mr. Nachtsheims testimony is attached and is EXHIBIT 1 of the minutes.

PROPOSERS

There were no other proposers to House Bill 197.

OPPOSERS

There were no opposers to House Bill 197.

Chairman Fedra opened the hearing to questions from the committee.

Clarification questions were addressed to Mr. Nachtsheim.

Representative Donaldson closed the hearing on House Bill 197.

HOUSE BILL 290-SPONSOR, Representative Keedy, introduced the bill to the committee and explained why the bill came about. He gave background material on silicosis, a fibrotic condition of the lungs resulting from inhaling silica dust. This bill increases payments from \$175 per month to \$400 to victims of silicosis.

HB 290 (cont.)

The bill also provides that upon the death of a person receiving payments for silicosis, the surviving spouse will receive a \$400 per month payment regardless of the spouse's marital status, income, or the date of the death of the silicosis victim.

PROPOSERS

DON JUDGE, AFL-CIO, arose in support of House Bill 290. He said that he concurred with Representative Keedy's explanation of the bill.

REPRESENTATIVE JOE QUILICI, stated his support of this legislation. He stated that he knows several victims of this terrible condition and feels they should receive this compensation. He said that there has not been an increase in benefits since 1973.

OPPOSERS

There were no opposers to House Bill 290.

Chairman Feda opened the hearing to questions from the committee

Representative Kropp asked Representative Keedy how the determination of whether a person has silicosis is made. and at what stage of the disability do they become eligible for the benefits.

Representative Keedy said that there are certain examinations that a person undergoes to verify the condition. He said that disability is almost immediate and there is no cure for this disease.

There were also questions concerning the marital status of a widow who receives these benefits. Some of the members questioned her being able to collect the benefit if she remarries.

Representative Spilker asked how many recipients of this benefit would there be.

Representative Keedy said that there are approximately 238 and 73 percent are over the age of 70. He stated that the committee should take into consideration that the cost of this benefit will go down each year as the number of survivors decrease.

Representative Keedy closed the hearing on House Bill 290. He said that the recipient of this benefit would be happy to receive any increase but that he thought \$400 was a justified amount considering that the cost of living has increased 100% since they began receiving the benefits.

HOUSE BILL 252-SPONSOR, Representative Curtiss, introduced this bill to the committee. This bill amends the Montana Administrative Procedure Act to require that when a hearing is held to adopt, amend, or repeal a rule resulting from rulemaking authority granted during the last session, the agency must notify all standing and conference committee members who heard and considered the bill authorizing the rulemaking. A copy of Representative Curtiss' testimony is attached and is EXHIBIT 2 of the minutes.

PROPONENTS

CAROLE BRASS, Citizens Legislative Coalition, arose in support of HB 252. She said that it costs \$300 to get a copy of the register (ARM). The Department of Revenue, she stated, is a responsive agency, however, the Departments of Health, Institutions and Social Rehabilitation Services are not responsive to the public for these requests and may not be responsive to the legislature.

LARRY WEINBERG, Department of Revenue, stated that they are not opposed to the concept of the bill but would offer some amendments. He said that the committee may want to provide an amendment to the bill saying that the department can request payment for this distribution. Also, he suggested that the bill be reworded to say that upon request a legislator would receive this mailing thus eliminating an automatic mailing and respective "paperwork blizzard". He also suggested that the "20 days' prior notice of the hearing" mailing date, be changed to 30 days since agency rulemaking notices are mailed 30 days prior to the agency's intended action.

OPPONENTS

There were no opponents to House Bill 252.

Chairman Feda opened the hearing to questions from the committee.

Representative Spilker suggested that the bill should also include changes made in past sessions not just the "last session" as stated in the bill.

Representative Dassault asked Mr. Weinberg if a legislator could request these mailings now.

Mr. Weinberg said that they do handle special requests and can tailor their mailing to requests.

Representative Curtiss closed the hearing on House Bill 252.

HOUSE JOINT RESOLUTION 12-SPONSOR, Representative Sales, introduced this resolution to the committee. This resolution freezes salaries of all elected officials in Montana whose salaries are set by the Legislature until the per capita income of the average Montanan reaches the national average. When this occurs, the salary schedule adopted by the Legislature for these officials will become effective.

PROPOSERS

There were no proposers to House Joint Resolution 12.

OPPOSERS

WILLIAM L. ROMINE, Montana Clerks & Records Assoc., stated that the Association opposes HJR 12 because the spendable income of the clerks has also gone down and they suffer the same problems as other Montanans. He said that the Legislature should also keep in mind that the salaries of many deputies are pegged to the salaries of the elected official and their salaries would also be frozen. Finally, he stated, the per capita income of the average Montanan may never reach the national average and therefore HJR would freeze the salaries forever.

REPRESENTATIVE HELEN O'CONNELL, stated that she would like to speak as an opposer in saying that this resolution would deter many people from running for legislative offices.

Chairman Feda opened the hearing to questions from the committee.

Representative McBride stated her concern about Montana ever reaching the national average.

HJR 12 (cont.)

Representative Hanson said that a freeze in salaries may eliminate qualified people from running for office.

Representative Sales closed on House Joint Resolution 12. He said that this is a step in putting control on the growth of government.

HOUSE BILL 302-SPONSOR, Representative Bardanouve, was not present to make the introduction to HB 302, however he did arrive shortly after the hearing opened and he addressed the committee.

PROPOSERS

MORIS BRUSETT, Department of Administration, stated that this bill was requested by the Department of Administration and authorizes the department to develop and administer a sick-pay plan that provides for an agency to make payments in lieu of wages to employees on account of sickness or accident disability. Payments from the sick-pay plan may be made only from funds appropriated for that purpose. The law now provides that a permanent full-time employee may earn twelve sick day credits per year. He said that the bill does have a fiscal note and a statement of intent should accompany the bill. (The statement of intent and fiscal note were not available to the committee at this time.)

CHAD SMITH, representing the Montana Hospital Assoc. and the Montana School Assoc., stated that they feel the bill should be extended to include political sub-divisions as well as the State of Montana. He also said that this provision is now available to larger private business but very few take advantage of it. He said that there is no reason why the State should not have the same option.

LARRY NACHTSHEIM, P.E.R.S., stated their support of House Bill 302.

OPPOSERS

There were no opposers to House Bill 302.

Chairman Feda opened the hearing to questions from the committee.

HB 302 (cont.)

Representative O'Connell was very concerned about the effect this bill would have on disabled employees in respect to their social security payment. She said that when the person retired they would receive less money if they did not pay into social security while they were disabled.

Larry Nachsheim said that they would receive the difference of what they would have paid into social security as part of their salary. In most cases, he said, there would be very little effect on the social security payments received by the disabled person. He said that in most long term disability cases a person would elect to go on workmens compensation, in which case there would be no payments into social security.

Tom Schneider concurred with with Mr. Nachsheim in regard to his statement about workmens compensation and he added that the reason this system has not been used much in the past by private business is because the amount an employer had to pay into social security used to be less. The savings realized was 12 to 13 thousand dollars in comparison to 29 thousand today.

Chairman Feda closed the hearing on HB 302.

EXECUTIVE SESSION

HOUSE BILL 197

DO PASS

Representative Mueller moved that HB 197 DO PASS. The motion was seconded by Representative Briggs. Question being called a vote was taken and carried unanimously that HB 197 DO PASS. Representative Azzara was absent and Representatives Winslow and Ryan were excused.

HOUSE BILL 252

NO ACTION TAKEN

It was the desire of the committee that HB 252 be held for amendments.

HOUSE BILL 302

NO ACTION TAKEN

Held for fiscal note and statement of intent.

EXECUTIVE SESSION (cont.)

HOUSE BILL 290

DO PASS AS AMENDED

Discussion was held concerning reinstating stricken language of the bill.

Representative Sales moved that the bill be amended as follows:

Page 3, line 9.

Following: "~~unmarried~~"

Insert: "as long as such spouse remains unmarried,"

A vote was taken and carried 9 YES and 8 NO. A copy of the vote is recorded on the roll call vote sheets.

Representative Sales moved that HB 290 be amended as follows:

Page 3, line 15.

Following: "~~of~~"

Insert: "one half of"

Page 3, line 17.

Following: "~~year~~"

Insert: ", provided, however, a person is not eligible for these payments if such spouse's taxable income is \$6,800 or more per year"

A vote was taken and carried 11 YES and 6 NO. A copy of this vote is recorded on the roll call vote sheets.

Representative Sales moved that House Bill 290 DO PASS AS AMENDED. A roll call vote was taken and carried with 11 YES and 6 NO.

HOUSE JOINT RESOLUTION 12

DO NOT PASS

Representative Mueller moved a DO NOT PASS on HJR 12. Representative O'Connell seconded the motion. A vote was taken and carried 13 YES and 4 NO. Representative J. Ryan and Azzara were absent. Representatives Spilker, Smith, Kropp and Sales voted No.

STATE ADMINISTRATION
JANUARY 26, 1981
Page 8

EXECUTIVE SESSION (cont.)

HOUSE BILL 201

DO PASS AS AMENDED

This bill had been held in committee until further information could be gathered concerning questions the committee had. Representative Spilker addressed the committee with information she received concerning this bill. (statement of intent attached, EXHIBIT 3)

Representative Spilker moved that HB 201 be amended as follows:

Page 2, line 10.

Following: "within"

Strike: "2"

Insert: "3"

A vote was taken and carried unanimously to amend HB 201.

Representative O'Connell made a motion that HB 201 DO PASS AS AMENDED. The motion was seconded by Representative Winslow. Question being called a vote was taken and carried unanimously. 17 YES and 2 absent.

HOUSE BILL 263

DO PASS

Representative Mueller moved a DO PASS on HB 263. Representative Sales second the motion. A vote was taken and carried unanimously. Representatives Ryan and Azzara were absent.

HOUSE BILL 264

DO PASS

Representative Phillips moved that HB 264 DO PASS. The motion was seconded by Representative Kropp. A vote was taken and carried unanimously. Representative Ryan and Azzara were absent.

A motion was made to adjourn at 10:45 a.m.

Respectfully submitted,



G. C. "JERRY" FEDDA, Chairman

Cathy Martin-Secretary

LC 314

HB 197 *Lucy 1/26/81*

PURPOSE: To generally clarify and revise certain sections of the Public Employees' Retirement System Act regarding membership, contributions and benefits.

Section 1. Section 1 is to clarify some of the definitions currently found in the P.E.R.S. Act. Accumulated contributions has been defined so that a layman may understand it and similar legislation has been proposed for other systems to use basically the same definition for accumulated contributions. Creditable service has been redefined to remove language that has been subject to abuse.

Section 2. This section has been amended to provide the procedures for termination of P.E.R.S. coverage by a political subdivision. The current laws provide that termination may occur, but current statute provides no outline of procedures to terminate coverage.

Section 3. This section simply changes the transfer agent from the State Auditor's Office to the Department of Administration which is currently the agency handling transfers under the SBAS system.

Section 4. This section amends the current refund procedures and eliminates an individual taking several refunds for the same contributions. Terminated employees would be limited to one refund for current service unless an administrative error is made.

Section 5. This section simply provides that the date the member contributions are paid by the employer of one dollar for each member be changed from July 1st of each year to January 1st of each year. Many school districts are not required to pay on their employees under current statute as they do not have an operating unit on July 1st of each fiscal year.

Section 6. This section clarifies Section 19-3-906, MCA, by defining actuarial reduction to be one-half of one percent for each month preceding the member's 60th birthday.

Section 7. This section amends the income limitation currently placed on disabled retirees permitting them to enjoy cost of living adjustments that have been granted by the legislature when calculating their salary limitations.

Section 8. This section increases the amount of money a retired member may earn when returning to covered employment and not working the 60 working days in a fiscal year. This amendment is similar to the current Social Security income limitation provision.

Section 9. This section permits a member to have multiple beneficiaries. Under current statute, members may not name more than one beneficiary, although in actual practice, some members have designated more than one beneficiary.

Section 10. This section removes the ambiguous limitations placed on benefit payment to minors and defines the instances in which the Board may grant payments to a minor beneficiary.

Section 11. Repeals Section 19-3-1303, MCA, which had permitted direct payments to undertakers on behalf of deceased members when no other beneficiary could be found. This payment was made in adversity to any other legitimate creditor of the estate of a deceased member.

PROS AND CONS: This bill is primarily administrative cleanup and the provisions have all been discussed with the Public Employees' Retirement Board and reviewed by the Board Attorney. It will permit us to better serve the members of the retirement system and the only possible adversary provision is the one concerning undertakers.

FINANCIAL IMPACT: Minimal. There are no additional benefits granted in this bill other than the change in the salary limitations and the method of payment to minor children and there are so few members and retirees currently involved in these provisions that the cost would not be significant.

PRIOR LEGISLATIVE HISTORY: The Public Employees' Retirement Act has been amended in every session of the legislature since 1945 and occasionally a general revision is in order to clarify and update provisions of the Act to reflect current economic and social practices and remove inequities that have occurred as a result of previous amendments not considering other statutes when passed.

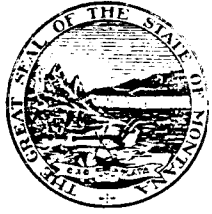
EXAMPLES OF HARM: In the overall, the bill is basically harmless, however, in the area of creditable service, one individual received a benefit larger than would have normally been given in the same situation primarily due to the ambiguous language found under the definition of creditable service. In section 4, under the refunds, we have found individuals with money in the retirement systems coming in 5 months in succession and drawing out \$1,000 rather than taking all the contributions at the time of termination requiring the retirement system to act as a budget control. This does have some administrative cost to the system.

Section 7. This section concerns disabled retirees. In some instances while earning up to the maximum allowable outside income, under current statutes, any cost of living increase granted by the legislature has no affect on them because Section 19-3-1103 has the effect of limiting their total income, including disability, to the salary they are earning 5, 10 or 15 years ago.

Section 8. We have individuals with expertise who come back to covered employment and due to the current minimum wage limitation are forced to forego retirement benefits.

Section 10. Under the current statutes, a surviving parent who cannot afford to secure guardianship papers or see no financial advantage in securing a guardianship is not able to apply for benefits due a minor child because of the death of the other parent. This statute will rectify this but does have provisions to protect the interest of the minor child.

INTERESTED PARTIES: The provisions of this bill have been discussed with the Public Employees' Retirement Board, current P.E.R.S. retirees, employee representative organizations and should enjoy the support of all of these organizations.

*The Big Sky Country***MONTANA STATE HOUSE OF REPRESENTATIVES**

REP. AUBYN A. CURTISS
HOUSE DISTRICT NO. 20
BOX 102
FORTINE, MONTANA 59918

HOUSE BILL 252

COMMITTEES:
FISH & GAME
JUDICIARY
NATURAL RESOURCES

Mr. Chairman, members of the Committee:

For the record, I am Aubyn Curtiss, Representative from District 20, Flathead and Lincoln Counties.

MR. CHAIRMAN, TALKING TO PERSONS WHILE CAMPAIGNING AND TRAVELING ABOUT THE STATE, I HAVE REPEATEDLY HEARD REMARKS FROM INDIVIDUALS WHICH INDICATE THAT VOTERS ARE BECOMING INCREASINGLY CONCERNED ABOUT WHAT THEY PERCEIVE TO BE A LACK OF CONCERN ON THE PART OF LEGISLATORS REGARDING WHAT GOES ON IN STATE GOVERNMENT WHEN THE LEGISLATURE IS NOT IN SESSION. THERE IS A PREVALENT FEELING THAT WE PASS LAWS HERE, ABROGATE OUR RESPONSIBILITIES TO OTHERS UNDER THE ADMINISTRATIVE PROCEDURES POLICY, AND FAIL TO FOLLOW UP TO DETERMINE THE EFFECT OUR ACTIONS HAVE ON THE CITIZENS OF THE STATE WHEN INTERPRETED BY THE ENFORCING AGENCIES.

PROVISIONS IN HOUSE BILL 252 ARE INTENDED TO KEEP LEGISLATORS BETTER INFORMED OF WHAT ACTION IS BEING TAKEN TO IMPLEMENT ENABLING STATUTES PASSED DURING THE PRECEDING LEGISLATIVE SESSION. I FIRMLY BELIEVE THAT AGENCIES WILL FEEL MORE CONSTRAINED TO COMPLY WITH THE INTENT OF THE LEGISLATIVE BODIES WHEN AWARE OF THE FACT THAT THEY WILL BE REQUIRED TO NOTIFY BILL SPONSORS AND COMMITTEE MEMBERS OF REGULATIONS THEY WISH TO IMPOSE, AND THE DATES OF PUBLIC HEARINGS SCHEDULED ON THEIR PROPOSALS.

HOW MANY OF YOU HERE APPROVE THE ACTIONS OF A STATE AGENCY IN ADOPTING STRICTER STANDARDS THAN THE E.P.A.? HOW DO YOU FEEL WHEN ASKING FOR A COPY OF RULES RESULTING FROM PASSAGE OF A CERTAIN BILL AND ARE TOLD THERE ARE NONE AVAILABLE IN ONE PLACE, THAT YOU MUST COME VISIT THE DIRECTOR OF THE DEPARTMENT TO FIND OUT ALL THE SUB-DEPARTMENTS' REGULATIONS AND WHERE TO LOOK FOR WHAT YOU HAVE IN MIND?

SOME HAVE COMMENTED THAT 20 DAYS IS NOT SUFFICIENT NOTIFICATION, SO I WOULD SUGGEST THAT ON PAGE 2, LINE 17, THE 20 DAYS BE AMENDED TO READ, "30" DAYS.

ALSO, I WISH TO INSERT AFTER "TO" AT THE END OF THE LINE, THE WORDS, "THE PRINCIPAL SPONSOR,"



The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

HOUSE BILL 252

HOUSE BILL 358, IDENTICAL TO THIS ONE, PASSED THE HOUSE OVERWHELMINGLY, LAST SESSION, ONLY TO BE DEFEATED ON THE SENATE FLOOR BY ONE WHO INSISTED THAT THE COST WOULD BE TOO PROHIBITIVE AND THAT THE AGENCIES WERE DOING IT ALREADY. THE ONLY OPPONENT IN COMMITTEE WAS A GENTLEMAN FROM THE DEPARTMENT OF REVENUE WHO CLAIMED THIS IS BEING DONE ALREADY. HOW MANY OF YOU RECEIVED NOTICE OF RULES BEING PROPOSED BECAUSE OF LEGISLATION YOU MAY HAVE SPONSORED?

I'LL BE THE FIRST TO ADMIT THAT PASSAGE OF H.B. 252 CANNOT ENSURE THAT THE AGENCIES WILL NO MORE GO BEYOND LEGISLATIVE INTENT WHEN ADOPTING RULES, PARTICULARLY IF LEGISLATORS FAIL TO READ THEIR MAIL OR ASSUME THE RESPONSIBILITY THAT THEIR CONSTITUENTS SHOULD BE ABLE TO EXPECT OF THEM. BUT WE ALL CAN BE MORE EFFECTIVE IF WE ARE BETTER INFORMED. THE COST SEEMS RELATIVELY VERY INSIGNIFICANT COMPARED TO THE DESIRED BENEFITS.

I SINCERELY BELIEVE THAT THIS NOTIFICATION PROCESS WILL NOT ONLY PRECLUDE SOME COSTLY ERRORS, BUT WILL CREATE A CLOSER WORKING RELATIONSHIP BETWEEN LEGISLATORS AND THE AGENCIES. FOR THESE REASONS, I URGE THAT THIS COMMITTEE GIVE H. B. 252 A "DO PASS".

HOUSE BILL 201

STATEMENT OF INTENT

The Realty Transfer Act requires the sale price of certain real estate to be reported to the State Department of Revenue. The purpose of the Act is to allow the Department of Revenue to check the accuracy of appraisals of real estate by its employees and agents. This bill will require the Department to publish a sales-ratio study to inform the public of the accuracy of appraisals. The form of the report will be determined by the Department. The bill also requires that the Department furnish information from the Realty Transfer Act to individual taxpayers who wish to appeal the appraisal of their property. This information will consist of the appraised value and sales price of property comparable to the property under appeal. This information shall be presented to the taxpayer in a form designated by the Department and may be used as evidence by either the taxpayer or the Department in a tax appeal procedure.

VISITORS' REGISTER

HOUSE

COMMITTEE

ALL

Date _____

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE

COMMITTEE

RULL

Date

ONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE For H. 111. COMMITTEE

COMMITTEE

Date 1/26/81

Date _____

1/26/81

PULL 502

SPONSOR _____

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE Subcommittee COMMITTEE

BILL ACP-12

Date _____

SPONSOR _____

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME CARD SMITH

BILL No. HB 302

ADDRESS Box 604 #1122A

DATE 1-26-81

WHOM DO YOU REPRESENT Montgomery + Mont Sen Bldg Assn

(SUPPORT) HB 302

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This bill will extend an option to political subdivisions to elect the "sub-pay-plan". This includes public school districts, public hospital districts and county hospitals.