

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 23, 1981

The twelfth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the above date, in Room 442 of the state Capitol Building at 10:00 a.m.

ROLL CALL: All members of the committee were present, except Allen Kolstad.

CONSIDERATION OF SENATE BILL NO. 135:

AN ACT TO AMEND SECTION 19-4-403, REDUCING THE AMOUNT A TEACHER MUST CONTRIBUTE TO THE RETIREMENT SYSTEM TO EARN SERVICE CREDITS FOR EMPLOYMENT WHILE ON LEAVE.

Senator Pat Regan, Billings, District 31, sponsor of the bill, stated there is an inequity in the teachers' retirement system. The bill provides for an individual who goes on leave to enhance his teaching experience. The usual case is the administration will say they would like him to go back to school next year so that he can fill a particular spot. This education may last up to two years. When he returns, he is paid a higher rate of pay. The current law says after completing five years of service to the district, one can go back and serve the years lost. She posed the question, "At what level should he be expected to buy in the years he lost?" She feels he should be able to buy in at the rate that was available during the years he was absent.

PROPONENTS:

Dave Sexton, Montana Education Assn., states this bill is asking for the individual to be allowed to buy back the time he lost at the salary rate he would have earned if he were not on leave instead of the later salary rate he is now earning.

OPPONENTS:

Bob Johnson, from the Teachers' Retirement System, read a letter that he had written to Senator Story, which is included in the minutes.

Questions from the committee: Senator Story asked Mr. Johnson if the board is made up of both active and retired teachers. The answer was yes. Senator Story then asked him if this proposal had been submitted to the teachers. He said, "No."

Senators Ryan and Hafferman asked Mr. Johnson questions concerning the basis for the amount paid for membership in the retirement system and if the compilation of funds, including interest, would take care of it. Mr. Johnson said it is based on the first year's salary on return to staff following the service. He noted that there is some interest but not all and can only be charged back to 1973.

Senator Towe asked Senator Regan what her intention is of striking line 4 and 5. She stated that the contribution rate is the question. She said she is asking the committee to consider what is fair. She feels the present rate of buying in is unfair.

Senator Towe asked if there could be more than two years actual lapse; and if so, what would be her intention. Senator Regan answered that the two years he took leave would be the ones involved.

Senator Towe asked about a situation whereby a woman may have taken maternity leave in 1960, went to school, went back on board in 1970. Senator Regan suggested that the language be tightened so it would preclude a difficult situation suggested here.

Senator Towe told Mr. Johnson that he understands that there is no limit when a person can buy this and that he cannot collect interest prior to 1973. He felt that neither is addressed by Senator Regan. What he feels Mr. Johnson suggests is relating to the existing law. Mr. Johnson agreed and stated that his board does object to paying at the time he is on leave.

Senator Hammond verified that this is up to the board. Then he gave an example to Senator Regan of a teacher going to Europe. She said this situation would apply if he left to enhance his teaching, pointing out that all education does not take place in a school facility, and this would be determined by the school board. Senator Regan also pointed out that when the teacher takes a leave, he pays his own way.

Senator Hammond claims that by taking such a leave a teacher can do a better service to the school. He cited two instances from his school district whereby teachers were paid during their leave. He does not think it is fair that the individual asks to buy in at the rate he left because he is earning a higher salary now.

The sponsor, Senator Regan, gave an example of a man who came back and became administrator. What would be the fair price to buy into the system? This would be in an inflated figure which is unfair.

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Senator Ryan asked to be clarified on the fact that a woman on maternity leave could buy back retirement. The answer was yes.


Senator Towe suggested the possibility of reinstating the existing language and striking the new language posed by the author. He asked about putting in page 2, line 5 this sentence. "If the person is not absent for more than two years, the salary that would have been made to the system had the member not taken leave may be used instead of the first full year's teaching salary after his return." Both Senator Regan and Mr. Johnson agreed to this.

Mr. Sexton noted that they are interested in the soundness of the retirement system, also the fair treatment of individual teachers. They think this legislature would bring about an improvement. There are enough instances that individuals pay more than they should.

Senator Story appointed a subcommittee of Senator Towe for this bill.

The hearing was closed.

ADJOURNMENT: 10:40 p.m.



SENATOR PETE STORY, CHAIRMAN

12th meeting

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 1-23-81

NAME	PRESENT	ABSENT	EXCUSED
Senator Pete Story, Chairman	✓		
Senator Allen Kolstad, V. C.		✓	
Senator William Hafferman	✓		
Senator H. W. Hammond	✓		
Senator Jan Johnson	✓		
Senator Patrick Ryan	✓		
Senator Thomas Towe	✓		

Each day attach to minutes.

STATE OF MONTANA

REQUEST NO. 107-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 16, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 135 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

Senate Bill 135 is an act to reduce the cost to purchase service credit for employment while on leave.

Fiscal Impact

The long range effect of the passage of this bill will be a cost impact to the retirement system. However, it is impossible to determine the magnitude of the impact, because the number of members eligible to buy creditable service under the leave provision or who would be eligible in the future cannot be determined.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-21-81

The Teachers' Retirement System

1-23-81

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State of Montana

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HELENA, MONTANA 59601

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January 23, 1981

The Honorable Pete Story, Chairman
Senate State Administration Committee
State Capitol
Helena, MT 59620

Dear Senator Story:

The Teachers' Retirement Board is in opposition to Senate Bill No. 135.

I would first like to make a few comments regarding the current provision. As I understand it, there was considerable pressure on the Teachers' Retirement Board by organized member groups to allow a member to buy additional service credit for time while on leave. The result was 19-4-403 MCA which was enacted in 1973 and apparently agreeable to the majority of membership and their related organizations. The language in the present provision provides a clean and efficient method of determining the salary used in the calculation of the cost of the leave. The one weakness of the measure is that it did not provide a time limit by which the member had to buy their service. In 1980 we had 233 members who purchased or were buying leave time on an installment basis.

The first change in the bill would allow the member to buy leave at a cost based on the salary the member would have earned had the member not taken the leave. Currently it is based on the first full years teaching salary following the leave. The language in the present law allows a member to buy up to two years provided he was a member of the System prior to the leave and upon his completing five years of active service following the leave if his employment while on leave

text

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enhanced his teaching experience as determined by the Board, the Board has placed a very liberal interpretation on the enhancement language, therefore, employment while on leave applies to just about any conceivable type of employment situation. For example, a member could have left teaching and become a housewife and raised a family, started a private business or some other type of employment and then returned to teaching. We have many members who have this type of leave in the early fifties. In many cases it would be difficult if not impossible to document the salary they would have earned during the leave time.

The second change would allow the member to purchase the leave at a cost equal to the combined employer and employee contribution rate that would have been made to the System had the member not taken the leave. We strongly object to this change. Since the member is not eligible to purchase the leave until he or she has completed five years after the leave we think the contribution rate should be the rate in effect at the time the member becomes eligible. The reason for the five year provision is that another section of the law states that any creditable service used in the calculation of benefits, the last five years must be in Montana. Contribution rates change when there is an improvement in benefits and since the member purchasing the leave time would benefit by any changes, we think the cost should be based on the rate in effect at the time he becomes eligible. If there is no change during the five years the contribution rates would be the same as the year in which the member took the leave. There also is an additional cost to the System in that as a result of an Attorney General's opinion dated December 6, 1971, on out-of-state service, by Robert L. Woodahl, the System can charge interest only back to the effective date of the passage of the law or when the member had completed five years of service following the service being purchased, whichever is later. The language in the bill is misleading in that it states, "plus interest at the rate the contribution would have earned had the contribution been in his account upon the completion of five years of membership service in Montana". The Board also allows a member one year after the time the member becomes eligible before interest is charged. Since the current interest rate charged is 7% there is really no incentive for a younger member to buy the leave since he can invest that money at a higher yielding interest rate.

The present law seems equitable in terms of cost to the member and at the same time is considered fair to the System. It has been argued that a member may take leave to obtain an advanced degree and then return to membership service at a much higher salary than he left, and therefore, should not have the cost based on this higher salary. We wish to point out that a member's retirement benefit will also be based on a higher salary and usually a much higher salary than the salary the cost of the leave was based on.

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Testimony

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This bill simply reduces the cost of creditable service for a benefit the member will receive from the retirement system. The cost of the leave to a member will normally be recovered several times over after retirement. We think the bill is unfair to the System and also unfair to the several hundred members that have bought or are currently purchasing leave at the present time. We respectfully request your consideration in opposition to the proposed bill.

Sincerely,



F. Robert Johnson
Executive Secretary

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