

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
February 19, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 12:30 p.m.

ROLL CALL: Senator Ochsner was excused, Senators Thomas and Hammond came in late due to other meetings, all other members were present.

Senator McCallum turned the hearing over to Vice-Chairman O'Hara as Senator McCallum was the sponsor of the first bill.

CONSIDERATION OF SENATE BILL NO. 450:

AN ACT TO PERMIT THE QUALIFICATION OF SERVICE
TIME BETWEEN THE PUBLIC EMPLOYEES', HIGHWAY
PATROLMEN'S, SHERIFFS', GAME WARDENS', AND
MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEMS.

Senator McCallum, District No. 12 and sponsor of the bill, said he introduced this at the request of Flathead County. He then asked Daniel Johns of Kalispell to explain the bill.

Daniel Johns, attorney, said this all came about during labor negotiations with the deputy sheriffs in Flathead County. They are experiencing a problem in the Flathead County Sheriff's Department with dispatchers and jailers who are under the Public Employees' Retirement System (PERS). Employees who are sworn officers are under the Sheriffs' Retirement System. You cannot transfer contributions from one retirement system into the other. The problem is statewide. When a dispatcher or jailer becomes a sworn officer they have to start fresh in the Sheriffs' Retirement System, there is no transfer of benefits. Sheriff O'Reilly of the Lewis and Clark County Sheriff's Department said he often hires municipal police officers as deputy sheriffs. The policemen cannot transfer their retirement system's contributions to the Sheriffs' Retirement System. This bill attempts to permit movement between the retirement systems of the sheriffs, municipal police, game wardens and highway patrol with PERS. It is a conceptual problem they are encountering in negotiations. There is nothing they can do about losing their benefits. They would like to see employer contributions transferable from one system to the other. Flathead County considered at one point to hire dispatchers and jailers as sworn officers so when they finally worked into a sworn officer status they would be in the same retirement system. You would run into problems there with the pay difference, so you can't skirt it by doing that.

Jim Turcotte, representing PERS, said the Teachers' Retirement System is pointedly written out of this bill. When the original

bill was drafted the teachers did not know if they wanted to go into this kind of concept. The legislature might want to include teachers in this but from his standpoint he does not want to commit them. There is no problem as far as funding goes, the funding is provided. The employee contributes the normal cost and employer contributions will be transferred from the other system. The employee would pay the difference between what his employer contributed and what is required in the new system. He stated the following percentages of contributions for the different systems: PERS, 10.38%; Highway Patrol, 18.37%; Sheriffs, 12.81%; Game Wardens, 16.74% and Police, 22.15%. The differences that occur are due to the benefit structures the different systems have. The Police Retirement System is the most generous. The normal cost rates may change a small amount in 1982. The employer contributions from the other system would probably pay the normal costs.

Sharon Donaldson, representing AFSCME, AFL-CIO, Council 9, said they have a similar problem. When you have combined departments, such as the county sheriff's department and the municipal police department, they could not transfer funds. They drew their money out and could not revest it.

There were no further proponents and no opponents of the bill. Senator O'Hara then called for questions from the committee.

Senator Conover asked how they arrived at the different percentages for game wardens, sheriffs, etc.

Mr. Turcotte said the numbers were developed by evaluation of the retirement systems. The cost is based upon the percentage of salary. You have to consider the cost of the service in the future when the person retires, becomes disabled or dies.

Senator Conover asked if you are a sheriff and wanted to become a highway patrolman, how are you going to differentiate?

Mr. Turcotte said they only move the amount of money that would be required.

Senator Van Valkenburg asked if these were the only 5 retirement programs administered aside from PERS.

Mr. Turcotte said the only other retirement system they administer that is not included is the judges'. That is totally an elected official retirement program. A judge can retire at half pay in 15 years. In order to do that it would be very costly. The funding of the judges' system is left in the court area. It doesn't change that often and has never been a problem.

Senator Van Valkenburg asked how soon this could be done.

Mr. Turcotte said it could be done immediately. That would cause no problem.

Senator Van Valkenburg thought it would be appropriate to put an effective date of at least July 1 in the bill.

Senator McCallum thought it would automatically go to July 1 but we could put it in.

Mr. Turcotte said there is no problem with the retirement division whenever this goes into effect.

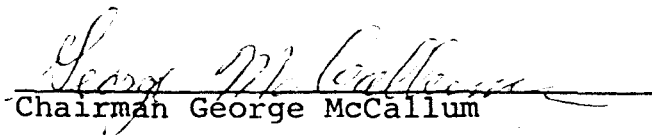
Senator Van Valkenburg moved we add an effective date to be effective upon passage and approval. The motion carried unanimously.

Senator Van Valkenburg moved the bill DO PASS as amended. The motion carried unanimously. Senators Ochsner, Thomas and O'Hara were absent.

DISPOSITION OF SENATE BILL NO. 465: The sponsor of the bill was not present at the hearing. The only ones present to testify were opponents of the bill.

Senator Conover moved the bill DO NOT PASS. This motion carried unanimously. Senators Ochsner, Thomas and O'Hara were absent.

There being no further business before the committee, the hearing was adjourned at 1:20 p.m.


Chairman George McCallum

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/19/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond	✓		
Senator J. Donald Ochsner			✓
Senator Bill Thomas			✓
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

DATE February 19, 1981

COMMITTEE ON Local Government

BILL NO. 5B45C

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

BILL NO. SB 467[illegible]

(Please leave prepared statement with Secretary)

NAME: Daniel D. Jones DATE: 2-19-81

ADDRESS: P.O. 759 Kalispell 59901

PHONE: 755-6244

REPRESENTING WHOM? FLATHEAD County

APPEARING ON WHICH PROPOSAL: SB 450

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Lin Turcotte DATE: 2-19-81

ADDRESS: 1712 9th Avenue

PHONE: 649-3155

REPRESENTING WHOM? PERD

APPEARING ON WHICH PROPOSAL: SB 450

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: WRITTEN REQUEST

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Richard Sandman DATE: 8/18/81

ADDRESS: 2705 Spurgin Road, Missoula, Mont. 59801

PHONE: 728-4300

REPRESENTING WHOM? Montana Division of Forestry.

APPEARING ON WHICH PROPOSAL: SB 465

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: SB 465 in direct conflict with existing rural
fire statutes. Would result in adding to the
confusion that presently exists. Counties
could become buried in paperwork- notices, etc.
SB 177 should be utilized as the implement
to achieve the goals of SB 465. SB 177
adjusts existing legislation - reduces confusion -
provides a basic level of fire protection to
rural areas. Recommend dropping SB 465
and support of SB 177.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Gene Frushin DATE: 2/19/81

ADDRESS: 1908 S. Washington St - Butte, Mont

PHONE: 792-8858

REPRESENTING WHOM? Mont Vol Fisheries Assoc & Fish Chief

APPEARING ON WHICH PROPOSAL: S.B. - 465

DO YOU: SUPPORT? ☐ AMEND? ☐ OPPOSE? ☒

COMMENTS: _____

Existing laws are sufficient!

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: ART KORN DATE: 2-19-81

ADDRESS: 1916 So W 15th St Butte

PHONE: 723 4691

REPRESENTING WHOM? Mont ST VOL FIREMEN'S ASSOC

APPEARING ON WHICH PROPOSAL: S B. 465

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BILL 450

The intent of Senate Bill 450 is to provide mobility among the systems administered by the Public Employees' Retirement Division.

The cost is provided in the bill. The employer contribution will be transferred from the other system, and the difference is to be paid by the employee.

SECTION 1 - Applies to Public Employees' Retirement Division

SECTION 2 - Applies to Highway Patrol Retirement Division

SECTION 3 - Applies to Sheriffs Retirement Division

SECTION 4 - Applies to Game Wardens Retirement Division

SECTION 5 - Applies to Police Statewide Plan

Richard Sandman
Chief - Fire Management Bureau - Montana Division of Forestry.
SB 465

Montana state statutes presently allow for the formation of various types of fire protection services:

- A) Municipalities: City Fire Departments
Volunteer Fire Departments
- B) Unincorporated Cities & Towns: Rural Fire Districts
(RFD-) Volunteer Fire Companies
Volunteer Fire Companies
County Wide Rural Fire Districts
- C) Wildland Areas: Forest Fire Districts
Affidavit Units
State-County Coop. Protection

The current statutes are lacking in (B) above in the following manner:

- 1) Many Volunteer Fire Companies are not "legal"
in that they are not a part of an RFD.
- 2) Funding for these "VFC's" is haphazard
- 3) No clear definition of responsibility exists

statewide. *Recent opinion of Attorney General indicates this is a County responsibility.*

The proposed Fire Territories bill would further confuse the issue.

SB 177 is presently attempting to unscramble this mess, and if passed would provide for everything in SB 465 and more. The local government (County) would have the primary responsibility for providing protection unless people petition into a ^{Rural Fire} District.

SB 465 - if passed in its present form, would be in direct conflict with the 7-33-2200 set of statutes and the Attorney Generals opinions on these statutes.

Comparison of SB 465 & 177 - Both dealing with this same issue.

SB 465

Allow area to be protected by corporation (if not in a municipality or RFD)

People allowed to petition out. Some would be protected, not all would pay.

Volunteer Counties may be formed. Volunteers may not get benefits (If Co. not formed.)

Emergency fund of \$30,000/Territory

Board of Corporation to govern affairs.

Can disincorporate and discontinue protection.

Corporation and negotiated rate determines protection level.

Funding could fluctuate.

Fire Chief answers to Department of Administration?

SB 177

Yes - County would have this responsibility. County can contract with a corporation now.

All landowners receive and pay for protection. *No free riders - no elaborate lists to maintain.*

Volunteer Counties are formed and Volunteers' get benefits.

Operating funds through a mil levy and
Emergency fund of \$40,000/County.

Board of Trustees formed, and County wide coordination through Fire Council and County Rural Fire Chief.

Protection continues, landowners not left in the lurch.

Board of Trustees (owners) and County determine protection level.

Funding levels set and should be level.

Fire Chief responsible to Board of Trustees and owners.

It would seem to be to our advantage to both clear up the ^{existing} statutes, and achieve the goals in HB 465, by passing SB 177, and dropping SB 465.

Specific problems: SB 465

Page 1, section 2: Would allow double taxation within forest fire districts and affidavit units.

(Need to add a disclaimer for FFD and AV areas.)

Would allow an incorporated fire territory to overlap a Volunteer Fire Company area.

(Need to add a disclaimer for VFC-non RFD-area.)

(But only for those properties protected by VFC's.)

Page 1, section 3: The County may contract after receiving the petition. How does the county determine if the corporation will be able to provide fire services, what level, at what cost, to how many people?

Page 2, section 3, line 4: How does one determine what it takes to become a corporation member, if at this time we still don't know how many people will sign up - or petition out?

Page 2, section 3(2): How do absentee landowners receive notification? The boundaries may change after original incorporation. They could be added to district without their knowledge.

Page 2, section 4: If I read this section properly, once the 30 days are up, no one can get out unless they join an RFD or municipal FD. (see section 10.)

Page 3, section 4(2): If people are allowed to join and then withdraw, and then sign up, and then withdraw depending on their own financial condition; it could result in a fluctuating budget.

It would normally be much cheaper for people to not join a territory and wait to see if they do have a fire, and then attempt to let their insurance provide coverage.

This type of system would result in a patchwork protection system.

What if the landowner does not need or want the fire suppressed. Can he be billed for putting the fire out? (2200 statutes) say no.

Page 3, section 4(3): The listing to the insurance commissioner may not accomplish anything. Not all insurance companies use the ISO rating standard in Montana. There presently is no teeth in the rating system.

Page 3, section 5:

It sounds as if the corporation could bail out in the middle of a tough fire season and leave the members high and dry.

What happens to the assets of the corporation if it stops providing protection.

Could someone incorporate, buy equipment, disincorporate and sell the equipment, and pocket the money?

Page 4, section 6:

The county presently has a ^{\$}15,000 fire emergency fund authority (SB 177 and HB 111 propose raising this to \$40,000). *SB177 would also add a permissive levy for operating funds*

If there are 10 fire territories, does this amount to a \$300,000 emergency fund?

(2) State statutes 7-33-2200 directs the county to provide fire protection at no additional cost to the landowner. These two statutes are in direct conflict with each other.

(2200 & SB465)

Page 5, section 6(3): Line 6: What is a major fire?

Line 7: Could be construed to allow normal operating purchases to be charged off against a fire, and pad the fire cost.

Line 9: equipment is also damaged, etc. on "minor" fires.

Line 11: should read "Co. governing body."

Section 3 sounds as if the county must automatically pay any bills - or only those of a non-member? Contract cost should cover all other costs, not open-ended as written here.

Page 5, section 7:

Once a corporation has a contract, and the equipment, then they virtually have the county and the taxpayers over the barrel. Could the officers in a "non-profit" corporation pad their pockets from increased contract costs?

Rural landowners would have to negotiate annually with "unionized fireman."

Page 6, section 8:

What if a very large fire occurs that exceeds the corporations capabilities, can they disincorporate and leave the county and members holding the bag?

Page 6, section 8, line 5: Unincorporated municipalities don't have any legal standing to sign mutual aid agreements - or do they?

Page 6, section 9: Not all insurance companies honor the ISO rating system.

Page 7, section 12: What if a Fire Co. is not formed? Does the Volunteer FF forfeit all the rights of a volunteer FF?

Page 7, section 13: The fire chief works for the Department of Administration and not local government?

Page 7, section 14: Does this allow the corporation to enter non-member property against his (landowners) wishes?

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/19/81 Senate Bill No. 450 Time 12:30

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	Excused	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	Excused	
Senator Bill Thomas	Excused	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved SB450 DC
PASS as amended.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/19/81 Senate Bill No. 465 Time 12:30

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	Excused	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	Excused	
Senator Bill Thomas	Excused	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Conover moved SB465 DO NOT PASS.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 19..... 19 81

MR. PRESIDENT

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 450

Respectfully report as follows: That SENATE Bill No. 450

be amended as follows:

1. Title, line 7.

Following: "SYSTEMS"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 7.

Following: line 7

Insert: "Section 7. Effective date. This act is effective on passage and approval."

And, as so amended,

DO PASS

g/c

STANDING COMMITTEE REPORT

February 19..... 19 81.....

MR. PRESIDENT.....

We, your committee on LOCAL GOVERNMENT.....

having had under consideration SENATE..... Bill No. 465.....

Respectfully report as follows: That SENATE..... Bill No. 465.....

DO NOT PASS

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