

MINUTES OF THE MEETING OF THE HOUSE STATE ADMINISTRATION COMMITTEE
March 14, 1983

CHAIRMAN JOE BRAND called the meeting to order at 8 a.m., in Room 129, Capitol Building, Helena, Montana.

Roll Call was taken and Representatives Francis Bardanouve and John Phillips were absent. All other members were present.

SENATE BILL 314

SENATOR LAWRENCE STIMATZ, gave an opening statment indicating the bill is a technical bill which does some good things for some of the smaller communities and for some of the people who are employed by them. This is referring to the employee's who are not under the Public Employee's Retirement Division system. It transfers the retirement credits for the public service performed within the State of Montana. The bill is twelve pages long but only because it refers to six different systems of retirement. It effects only those systems administered by the Public Employee's Retirement Division. This would cover cases where the cities are small and have a retirement system of their own. This does not involve teacher's system in any way.

At the Senate Hearing we had about eight groups and nobody was against the bill. The bill is supported by all groups who are effected by it. It is not going to effect the unfunded liabilities of any system.

PROPOSONENTS

LARRY NACHTSHEIM, Administrator, Montana Public Employee's Retirement Division, spoke as a proponent to Senate Bill 314. He referred to a bill that had been passed in the 1981 session concerning the firefighters and suggested an amendment based on this older bill. There is no cost to the system. The advantage in this bill is, if an employee transfers from one system to another, they will pay the costs incurred to make up the difference between programs. The big advantage is to the employee, as it currently exists, an employee could work for four or five different systems and pay into all of them but still not have enough money and/or time accrued to retire from any of them. This bill would allow them to combine the various credits from the different systems and therefore they would then be eligible for retirement on the final system in which they were covered under when they have accumulated the necessary time for retirement.

MIKE WALKER, Montana State Counsel of Professional Firefighters, stated they have have been amended into the bill they would like to rise in support of it. It allows people to transfer from municipal type government to state government.

THOMAS SCHNEIDER, Executive Director, Montana Public Employee's Association, spoke in support of the bill. This is a bill which culminates work MPEA did with the PERS Board during the interim.

THERE WERE NO ADDITIONAL PROPONENTS AND NO OPPONENTS TO SENATE BILL 314, CHAIRMAN BRAND ASKED SENATOR STIMATZ TO MAKE A CLOSING STATEMENT.

Senator Stimatz made a closing statement saying that this bill is strictly a voluntary bill. There is no compulsion about it. If an employee does not want to transfer any of his credits he doesn't have to.

COMMITTEE QUESTIONS

REPRESENTATIVE KATHLEEN McBRIDE asked, Senator Stimatz or Larry Nachtsheim, is it correct that the employee will be making the contribution of the actuarial costs? Will the employee be paying something or will this money be taken out of the present system and put into the new system? Mr. Nachtsheim replied that it would depend on which system he was transferring from and into which fund. If there is a difference in what he is paying now and the new system then he would have to make up the difference.

REPRESENTATIVE BILL HAND asked, Larry Nachtsheim what he meant when he said that it combines within the system. I don't understand this. Mr. Nachtsheim replied that they administer various groups of employees. He said that there is a minimum year of service before a person can retire, even under the various small systems that they now have operating. We just administer the funds for the various systems, they are not necessarily PERS funds. Someone can earn five years of service in four different systems and have enough money put into the program to retire since they will all be combined to form twenty years of service.

CHAIRMAN JOE BRAND asked, Mr. Nachtsheim why the firefighters were not put into this system two years ago. Mr. Nachtsheim explained that they did not administer them at that time.

Chairman Brand asked if the various pension plans pay into the system a little differently. Mr. Nachtsheim said, that each system has its own contribution rate and benefit structure and there are no two that are alike.

Chairman Brand asked if they could go into a system that is a lower benefit plan. How about the vested rights of the various plans. Mr. Nachtsheim replied that some of the vested rights are for ten years and some are for five years. Depends on the system.

Chairman Brand asked if the PERS people who have the five years would be better off in keeping this system. Mr. Nachtsheim replied that it would depend on the individual situation, if somebody were to have fifteen years in the police system and only five years in the PERS it would cost them too much money to buy the PERS time because they would be moving up the ladder as far as benefits are concerned.

THERE BEING NO ADDITIONAL QUESTIONS FROM THE COMMITTEE MEMBERS CHAIRMAN BRAND CLOSED ON SENATE BILL 314.

SENATE BILL 166

SENATOR DOROTHY ECK, sponsor of the bill gave an opening statement. This bill also deals with retirement for the retired members of the Teacher's Retirement System. The way the law reads now those teachers may teach one-fourth time and still receive their retirement benefits. Their pay is based on their last year of teaching. That pay does not increase while other members of the teaching core are getting regular increases. We have a number of people here to testify as to the benefits this would provide for the teacher and for the system as well as the students. This bill was proposed to me and to others throughout the system by Jim Cox, Professor of Chemistry at the University of Montana.

PROPOSERS

JIM COX, University of Montana, spoke as a proponent to Senate Bill 166 and he passed out copies of his testimony, see EXHIBIT A attached.

BOB JOHNSON, Teacher's Retirement System, spoke as a proponent and said that the Teacher's Retirement Board would like to go on record as being in support of this measure. We have been assured by our actuary that there would be no measurable cost to the system.

JIM MCGARVEY, Montana Federation of Teachers, AFT, AFL-CIO, spoke in support of the bill and he supplied the committee with written testimony, see attached EXHIBIT B.

NEIL BUCKLAN, President, University of Montana, spoke in support of the bill. He mentioned that his five colleague President's have reviewed the bill and endorse it as well as the Board of Regent's. This program provides flexibility from an administrative perspective. Financially and flexibility for the academic programs so that we can encourage partial retirement in the ability to have some vacancies that we can use for both financial purposes and also for changing curriculum. It is a fair arrangement for the partially retired faculty. The cost is something to be borne by the universities and the school systems involved. We believe this to be a fair and appropriate cost. It does not have any noted impact on the retirement system.

DENNIS WAGNER, Associated Students of Montana State University spoke in support of this bill. He said that the students need fresh ideas and this would enable this to happen. He mentioned that he agreed with most of what had already been said by the other proponents. See EXHIBIT C attached.

CARROLL KRAUSE, Deputy Commissioner for Academic Affairs, The Montana University System spoke in support of the bill. He supplied a written testimony, see attached EXHIBIT D.

JULIE VOSFENDER, Associated Students University of Montana, spoke in support of the bill. It gives the older teachers the opportunity to retire and yet remain on staff for that one quarter per year so that we the students can receive their expertise.

GERALD HARDY, representing the students from the four Montana Colleges, spoke in support of the bill.

FRED MONDAY, University of Montana, spoke as supporter of this bill. He said that he is an unten-yearred professor of Anthropology. He mentioned that with the early retirement of present teachers and professors it enables the younger newer teachers to begin their carreers and along with the new teachers usually come additional funds and research money, possibly even indirect trusts. Which in many cases would cover a large portion of the faculty salary.

THERE WERE NO ADDITIONAL PROPONENTS TO THIS BILL AND NO OPPONENTS TO SENATE BILL 166, CHAIRMAN BRAND ASKED SENATOR ECK TO CLOSE.

Senator Eck gave a closing statement. She said that there had not been any mention of the fact that this also applies to public school teachers. I don't think that it will be used as much in that area but there will be some use I am sure.

She mentioned that she did have some testimony from Vick McCoggan from Montana State University who wanted to be here to testify but he was out of the country. He was concerned about the declining enrollment in the Butte schools. They make three points: one being, that any reduction in force should be done in the most humane way possible; secondly the way of the reduction in force is handled is going to effect the morale of those who are left teaching; and third (most important) the way that it is handled will have a considerable impact on the economy of the Butte community. Example, if the most junior people are released from service, most of them would probably leave the community. However, the results of this bill would enable the community to handle the situation differently, therefore leaving all the persons involved remaining in the community.

COMMITTEE QUESTIONS

REPRESENTATIVE GLENN MUELLER asked Mr. Bob Johnson about the actuary figures. He felt that there was some problems with this. Mr. Johnson replied that they felt that the impact would be on the University system.

Representative Mueller then replied, in other words the actuary is saying that there is some cost for this but it would be very little compared to the amount of people in the system. Mr. Johnson replied that this was correct.

Representative Mueller asked if there had been any dollar amounts indicated. Mr. Johnson said that the actuary had mentioned in his letter that everyone who were under 62 years of age and had 30 thirty years of service. If all of the people that were in the system and eligible for this were to take advantage of it there would be an additional cost increase of .152 percent of salary. The likelihood of that happening is next to impossible.

CHAIRMAN JOE BRAND asked about what would happen if the retirement age were reduced to 25 years of service, what impact would this change have then. Mr. Johnson said that this would not have any effect. Senator Eck responded to this question, she had talked to Representative Nordvedt about this and he figured that it could very well have a possitive impact on the system.

REPRESENTATIVE BILL HAND asked Neil Bucklan if the cost would be picked up by the University system. Mr. Bucklan replied, yes, the effect is not to change the retirement contribution that anyone receives. The only change is to allow the University to now pay one-third time the persons salary verses one-fourth. We have always asked them to teach one-third but only paid them one-fourth because we have quarters at the University. It also allows the institution to move that partial salary at a rate that other salaries are being moved. Currently, it is locked in at the time of retirement. It is very negative for the person who is retiring now and would like to continue on a part-time basis. We are willing to take on that kind of cost because we think that it is fair and we think that it will open up flexibility that will have trade offs that we can handle.

Representative Hand replied, nevertheless it will be public dollars that will pay this, correct? Mr. Bucklan answered, yes, but remember what savings we may have on this system. This is a very likely possibility. We may use that two-thirds savings to hire a new person.

REPRESENTATIVE WALTER SALES asked Bob Johnson, what happens when the University decides to hire one of these retired professors on a part-time basis. When he does come back to work on that part-time basis do the employer and employee contributions continue? Mr. Johnson replied, No, they do not.

REPRESENTATIVE CLYDE SMITH asked Senator Eck, about the bill that is being held by the committee which would allow the teachers to retire at 25 years rather than 30 years, isn't this a conflict. Senator Eck replied that this would not be in conflict, as a matter of fact she felt that the two bills would work quite well

together.

CHAIRMAN JOE BRAND asked Senator Eck, this bill does not have a limit of what the one-third is going to be does it. Couldn't this be a large amount of money? Senator Eck replied that this was correct. In fact it would be a substantial amount of money in most cases.

Chairman Brand asked if the longevity increase and cost of living increases would be deducted from their pension. Senator Eck replied that they would not.

Chairman Brand asked how many are picking up on the University system right now under the one-fourth. Mr. Bucklan replied that he could only speak for the University of Montana and they probably currently have 32 faculty who are 65 or older and it would be fair to assume that most of those people are eligible for retirement now. If you were to go down to the 60 years of age level we would be talking closer to 70 faculty members. Many of those people would be eligible but many of them would not choose to do this. It is not an attractive program under the current arrangement.

Chairman Brand asked how many people Mr. Bucklan thought would take advantage of this under this system if it they won't retire now. Mr. Bucklan said that he has talked to 12-15 people who are fully eligible to retire and under this kind of program would give it serious consideration.

Chairman Brand asked Mr. Bucklan about getting younger professors on board in the system, what is the average age of the professors now? Mr. Bucklan said that it would be in the mid 40's. Chairman Brand then asked Mr. Bucklan and Mr. Krause to leave a break-down of the ages of the professors at both universities for the committee members to review.

Mr. McGarvey said that the local school teachers support this concept very much and they would also be in favor of the early retirement even though most of this discussion has been around the universities in the state.

THERE BEING NO ADDITIONAL QUESTIONS FROM THE MEMBERS OF THE COMMITTEE CHAIRMAN BRAND CLOSED ON SENATE BILL 166.

SENATE BILL 436

SENATOR CHET BLAYLOCK, sponsor of Senate Bill 436 gave an opening statement mentioning that this bill is very controversial and it is the re-establishment of the Public Service Commission after the Sunset Audit. A lot of people have questioned things because there are alot of changes in this bill from the way the law was, as there is after any legislative audit. It is the duty of the

Legislative Audit Committee, upon completion of the Sunset Audit and Review to make a report to the Legislature for continuation, modification or termination. He mentioned that sections 1 and 2 re-establish the Public Service Commission. He also mentioned the way that rates will be set other than on the federal level.

Section 4 makes what we did a couple years ago permanent. By saying that the cities could allow increases at 12 percent on their water and sewer rates. They can do that in each 12 month period.

The language on page 8 will undo what the Supreme Court decision said had to be taken out. This refers to the public county sewer districts and says that they would have to be under the Public Service Commission. This was not the case before. The PSC does not really want this responsibility. This language would take these people out from under the Public Service Commission jurisdiction.

He then went through the bill section by section.

PROPOSERS

THOMAS SCHNIEDER, Public Service Commission spoke in support of this bill. He mentioned that this bill comes after a full blown sunset audit. He said they feel that this is very solid and do not oppose any of the amendments that Senator Blaylock has mentioned here today.

OPEN WINEBRENNER, Public Service Commission spoke as the Staff Attorney for this office. She passed out a summary of the outline for this bill. See EXHIBIT E.

JIM HUGHES, Mountain Bell Telephone, spoke in support of the bill. He complimented the Interim Committee and Audit Committee. The bill may not cover everything but we support it as presented here today. He mentioned that they were in concurrence with the Public Service Commission's proposed amendments.

MIKE STEPHENS, Montana Association of Counties, spoke in support of the bill and the amendments proposed by Senator Blaylock regarding the local governments. Particularly, placing the language covering counties and how they carry out the bidding process as far as garbage haulers are concerned. This would be also to include making the duration of the Class D Certificate the entire duration of the contract. We feel that this fits very well into the bidding process. This makes it more workable than previously.

MORRISON GULLICKSON, United Transportation Union spoke in support of the bill. They support the bill as it was amended in the Senate.

JOHN ALLEN, Montana Consumer Counsel spoke in support of the bill. Direction was given to the part of the bill dealing with the

municipalities. We are especially in favor of this bill because of the 12 percent increase that will be allowed by the smaller cities and towns for their sewer and water rates. We thought that there may be some potential for abuse but we have no opposition to the bill now. There was some abuse in the past but the language that was put into this bill would protect the people from that occurring again.

ALEX HANSON, Montana League of Cities and Towns spoke in support of this bill. He referred to the language on pages 7 through 11 and mentioned that this area was covered under another bill which was presented in the 1981 legislative session. This bill has worked and he mentioned that there were in fact some cases of abuse in the past but that this language would clear that up. We want this bill to work and we worked with the Public Service Commission on the amendments that they presented here today. We think that this is a good solid process.

THERE WERE NO ADDITIONAL PROPONENTS TO SENATE BILL 436.

OPPONENTS

REPRESENTATIVE PAUL PISTORIA stated that he was not entirely an opponent to the whole bill. He is opposing only a portion of the bill which deals with the 12 percent increase allowed to the small cities and towns, page 10 through 12. He said that he had opposed the bill in the Senate and would continue to do so. No where in either of these two bills does a party have the chance to appeal to the District Court. If someone did have to appeal, they couldn't stand the cost. This is covered in House Bill 765 but it is not covered in this one unless I misread it. He mentioned that he was aware of three cities that really abused this in the past. There were probably others but he didn't want to mention them here now. Even if you amend this bill to include the appeal process to the District Court, you would be forcing a party to pay all the fees and costs. Under the present law, which expires July 1, 1983 it would allow the Consumer Counsel to at least hold hearings and find out if they were doing the wrong thing. Now, it is going to be worse if you give it to them permanently. He mentioned that he would be offering some amendments at a later time because he felt that the committee would not be acting on the bill today. These amendments would cover, appeal to the District Court; first class cities; and possibly some others.

THOMAS DOWLING, Montana Railroad Association, indicated their not necessarily strong proponents or opponents but they have some limited concerns with the bill. We liked the bill as it was presented to the Senate by the Audit Committee. I am asking you to unamend the bill. Particularly section 19 which deals with the investigation and enforcement ability for the railroad to the Public Service Commission. I am sure that you are going to be told that the Governor's budget has funded the safety inspection

and that is true for 1983 and 1984. There is fifty percent federal funding, which I am told by the Association of American Railroads will disappear in fiscal year 1985.

The title of the bill is inaccurate. When the Senate took into consideration the changes before it they did not correct the title.

I realize the Audit Committee worked for a year and half on the proposed changes and we would ask you to recognize the efforts applied by these people and reinstate the provisions that were amended out on page 26 through page 27, line 18.

BILL ROMINE, representing the Solid Waste Contractor's Association, (the garbage collectors), we do not appear in opposition to the bill entirely and if it were not for the amendments we would not be in opposition at all. We do oppose an attempt to amend back into this bill the sections concerning the garbage haulers and local, county and city contracts. You have in this bill a myriad number of regulated companies being addressed. There are many substantive changes in this bill regarding the various areas which are being addressed. I would say that there should be many separate bills put into the legislature for the many areas that we have in this one bill. They are all effecting different areas of the Public Service Commission. In fact, the amendment that is being proposed by Senator Blaylock was a special bill in this House, House Bill 186. That bill addressed the same purpose and subject, we had a special hearing on that bill, proponents and opponents appeared on that bill and the committee tabled that bill. But here we are again arguing the same problem in a bill that is 27 pages long and contains 22 sections. He mentioned the problem which had occurred in Red Lodge and explained that this issue had some legitimacy to it but the legislature has passed House Bill 73 which provides that the PSC may now consider competition as a grounds for granting a PSC permit on a class D garbage carrier. They had no such authority before. House Bill 73 was supported by the industry, and by the Public Service Commission.

SANDRA MINTYDLA, Lewistown, Montana spoke in opposition to the bill. She said that they would like to see the bill amended back and reinsert the portion on rate regulations. We oppose the section for adding local government for the reasons that Mr. Romine mentioned and others have mentioned earlier. We feel that the rate regulations could be a very inexpensive managed form of regulating us if we were given similar rights to the cities with their sewer and water regulations. We would urge you to reinsert the rate regulation as best as possible to the way that it was originally drafted.

THERE BEING NO ADDITIONAL OPPONENTS TO THE BILL CHAIRMAN BRAND ASKED SENATOR BLAYLOCK TO CLOSE.

Senator Blaylock made a closing statement. He cleared up the matter about House Bill 765 which had been a concern of Representative Pistoria. This language is still in the statute, it is not all in this bill. He mentioned that he was in concurrence on the issue about the appeal process to the District Court.

COMMITTEE QUESTIONS

REPRESENTATIVE PAUL PISTORIA asked anyone that could answer about 69-3-101, MCA, where is this section covered in the bill before us? Opel Winebrenner replied that it was on page 7, line 7 through 11. This made the statute permanent and it is in the code book currently.

REPRESENTATIVE FRANCIS KOEHNKE asked Senator Blaylock about the title where the language was changed on line 16. Senator Blaylock explained that this refers to the garbage haulers.

Representative Koehnke inquired about the process for other boards to be sunsetted if they were not included in this bill. Senator Blaylock said that it would be covered under the present Sunset laws.

CHAIRMAN JOE BRAND asked why is the fee being set by the commission rather than by law as it is now? Senator Blaylock replied that the fees that they are using now are not covering the costs of what they are doing. They would like to have them commence rate with what it is costing to do this.

Chairman Brand asked if there are any fees that are over the cost. Ms. Winebrenner replied that the fees were taken out because they would like every fee that is charged by a state agency to be set commence rate with costs. The commission would by rule set those fees at what we would hope would cover the cost of whatever we are doing. This was a recommendation of the Legislative Audit Office.

Chairman Brand said that he was talking about all the various fees that are mentioned in the bill. What this bill would be doing is taking away the power from the legislature and placing it with the commission. Mr. Opitz said that this could still be thrown out if the committee wanted. The danger in this would be that they would become out-dated because of costs that the commission incurs.

REPRESENTATIVE JERRY DRISCOLL asked the Consumer Counsel about the municipal utilities. Has there been any municipality that has not raised the rates to the 12 percent level in the past two years. The Consumer Counsel replied that their records indicate that about seventy communities have used this bill. I am not sure how many communities are out there, I have heard that there are about 130, therefore there are some which have not used this.

Representative Driscoll asked Senator Blaylock about the language on page 9. If the PSC were to order a temporary decrease and later

reversed itself, are they going to charge the consumer interest? Senator Blaylock replied, yes if they order a decrease and then they find that it was not justified, then they can put on a surcharge and they can charge interest to the customer. It would be the same as they would do on the other side.

Representative Driscoll said that he did not understand the reason for the interest part. Mr. Schneider replied that the way the law is now, on a temporary rate increase, the Commission is required by law to order a rebate with interest to the consumer and this would be an identical situation on the flip side. We would adjust the rate and it would include interest.

Representative Driscoll asked how the consumer would see it working, is this for a set time period. Mr. Schneider said that was correct and it was the reason that it is important because it would be for a set time period. Otherwise if it were just done by rate basis, it would not expire.

CHAIRMAN JOE BRAND asked Mr. Schneider which way it normally went. Is it usually for the utility or is it for the consumer when the adjustments are made on the rates. Mr. Schneider replied that in the high inflationary periods that we have had over the last few years, it has been the utility getting the interest. That situation is reversing now and that is why we think that it is so important to have the ability to order a decrease.

REPRESENTATIVE PAUL PISTORIA asked Mr. Schneider if it is true now that under the 12 percent law, the city files a form that they are contemplating needing the raise. In the Lewistown case, who found that they had a reserve? Couldn't this be abused more the other way with what you are trying to do here. Mr. Allen replied that in the Lewistown situation was an application before the Public Service Commission. If this legislation was passed, the application would still go before the PSC because they were asking for more than a 12 percent increase. Current legislation requires the city to file with the PSC but not this extent. This only applies when it is over 12 percent of an increase.

REPRESENTATIVE KATHLEEN McBRIDE asked Bill Opitz if he had any ideas about what the fees might be increased to. Mr. Opitz said that we will try to do a cost study but at the moment I don't think that they will be much different than what they are presently. This will depend on the mailing costs, supply costs and printing costs. We must have a hearing for any fee that is set. This would be proposed through the Administrative Rules.

REPRESENTATIVE FRANCIS KOEHNKE asked if this was the legislature's job rather than the agencies' job. I am afraid that this would be an open end deal. There is nothing to make them be efficient. It sounds like a cost-plus matter. Mr. Opitz replied that this was not their idea but it was a recommendation from the Legislative

Audit Committee. The money that is generated does not go to the Commission, it goes to the general fund. It is not earmarked revenue.

Senator Blaylock said that this was a directive from the Legislative Audit Committee not the decision of the PSC to include this portion into the bill. He mentioned that the truck fees might be a little high and maybe they should be brought down, but the truckers said that they weren't going to protest the fees. The way it is written, they could raise the fees but they could also lower the fees. It goes both ways.

REPRESENTATIVE PAUL PISTORIA asked Senator Blaylock why this bill was not split into several different bills rather than put into one large bill. Senator Blaylock said that we are suppose to modify these bills and sometimes we don't know what is going on when you have alot of small ones to deal with. This way we can look at the whole picture and decide what to do with it.

CHAIRMAN JOE BRAND asked if House Bill 186 was killed in the Senate could we take a portion of that bill and put it in this bill. Senator Blaylock replied that this could be done.

JOHN ALKE, Montana Dakota Utilities said that one thing should be pointed out regarding this review process. This was not simply a sunset review. If you recall in the 1981 session, SJR 27 directed the Legislative Auditor to take an indept study which went far beyond the normal sunset reviews. It is hard to draw a parallel between what happened with this bill and another.

REPRESENTATIVE PISTORIA said that he thought the Public Service Commission was established by the Montana State Constitution, how can you sunset this? It was not set by the State Constitution. Chairman Brand said that the Consumer Counsel is but not the Public Service Commission.

THERE BEING NO ADDITIONAL QUESTIONS CHAIRMAN BRAND CLOSED ON SENATE BILL 436.


EXECUTIVE SESSION

SENATE BILL 166 was put into the same sub-committee as Senate Bill 378 and will be considered next week.

REPRESENTATIVE CHESTER SOLBERG MOVED the meeting be ADJOURNED and this was seconded by Representative Glenn Mueller. Motion carried by unanimous voice vote.

The meeting adjourned at 11:43 a.m.

Respectfully submitted,


REPRESENTATIVE JOE BRAND, CHAIRMAN

STANDING COMMITTEE REPORT

MARCH 14

19 63

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 339

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"AN ACT REPEALING THE LAW RELATING TO DISCLOSURE OF PERSONAL ASSETS
BY ELECTED OFFICIALS; AMENDING SECTION 5-7-101, MCA; AND REPEALING
SECTION 5-7-213, MCA."

Respectfully report as follows: That SENATE Bill No. 339

XXXXXX BE CONCURRED IN
DO PASS

HOUSE State Administration COMMITTEE

Date 3/4/83

[illegible]

Form CS-33
1-81

This bill is proposed to provide a mobility of retirement credits for public service performed within the state of Montana. It only affects those systems administered by the Public Employees' Retirement Division.

The funding of these transfers will, in most instances, be provided at least in part, by employer contributions previously paid into a given retirement system if that system is administered by the PERD. Any short-falls of funding are made up by additional employee contributions made by the employee transferring the service. For this reason there is no cost associated with the bill and no additional employer contributions are required.

The bill is long because it involves six of the systems administered by PERD with a repetition of basically the same proposals for all six systems and adds the unified firefighters to systems eligible for service credit transfers. The Unified Firefighters' Systems did not come into existence until 1981 when the administration of 14 local fire systems was consolidated on July 1 1981. Therefore, firefighters were not included in the 1981 amendment that permitted transfers of credits among the other five PERD administered systems.

This bill does not directly affect the Teachers' Retirement System which has a separate reciprocity provision with the PERS currently found in 19-3-507.

Section 1 (PERS) - This section adds unified firefighters' service to the PERS list of systems eligible to transfer service credits into the PERS. (Page 1, line 21).

The deletion on page 2, lines 18 and 19 eliminates a restriction relative to PERS as this is currently covered under 19-3-507. (A proposal is currently before the legislature to amend this provision also).

Subsection 2a (Page 2 beginning on line 20) is a new transfer provision permitting PERS employees to qualify public service as determined by the PERS Board where the public service was not covered under a PERD administered system. The employee is required to pay the total actuarial cost for such public service.

Paragraph (b) (Page 3 beginning line 8) establishes the PERS Board's authority to determine public service eligibility for qualification in PERS.

Paragraph (c) (Page 3 beginning line 11) provides that a public employee is prohibited from using the same service credits in more than one system.

Section 2 (Highway Patrol) Page 3, amends the Highway Patrol System in a manner similar to section 1 for PERS.

Section 3 (Sheriffs) Page 5, amends the sheriffs' system in a similar manner.

Section 4 (Game Wardens) Page 7, amends the Game Wardens' System in a similar manner.

Section 5 (Municipal Police Officers) Page 8, amends the Municipal Police Officers' System in a similar manner.

Section 6 (Firefighters) Page 10 is a new section but is similar to previous amendments in this bill. The Unified Firefighters' System was created July 1, 1981 and was not subject to the transfer amendment enacted for the PERD retirement systems in 1981.

Qualification of Public Service Credits

Page 2

This bill is supported by all the employee groups participating in any of these systems and the transfers are strictly voluntary. Any cost involved in these transfers are paid by the members receiving the service credits.

This bill does not affect the unfunded liabilities of any system. Any transfers of money from one system to another result in a transfer of corresponding liabilities; any difference is paid by the member desiring to acquire this service.

VISITORS' REGISTER

HOUSE State Administration COMMITTEEBILL SB 166Date 3/14

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
W. T. Fink	Helena	Mont. Fed. of Teachers	X	
Joel Hardy	Helena	Mont. Colleges	X	
Robert Johnson	Helena	Teachers' Retirement	X	
Neil Bucklew	Missoula	U of M	✓	
Charles Bryan	Missoula	UTU - U of M	✓	
Carol K. K...	Helena	MT. Univ. System	✓	
Dennis Wagner	Bozeman	Students of MSU	X	
Jim M...	Helena	Mont. Fed. Teachers	X	
Long M...	Boulder	MT. Fed. of Teachers	X	
J. W. Cox	Msia	U of M	X	
J. Stanley	MT. Univ. System	Helena	—	
Jeanne Sauter	Missoula	Associated Students UM	X	
Monte Koch	"	U of M	X	
James W. Long	Helena	School Adm. of MT	X	
W. S. S...	Helena	MEA	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATEMENT TO THE HOUSE COMMITTEE ON STATE ADMINISTRATION

14 November 1983

We ask the House Committee to vote favorably on Senate Bill 166 and to recommend its passage because it is legislation that addresses one of Montana education's most persistent problems--how--without abrogating tenure laws--to provide for faculty turnover in times of retrenchment, changing student demands and need for curriculum flexibility in our schools and colleges. The problem has become aggravated in recent years as worries about inflation and long-range security cause teachers to stay on the jobs longer and longer, particularly when the law now makes it possible to work full-time to age 70 and beyond.

By enhancing the desirability of partial retirement, Senate Bill 166, we believe, will provide a dignified and productive option for faculty and for the school to utilize their best services part-time at a fair and equitable salary. We believe it will increase retirements appreciably.

The bill will accomplish this in a way, amazingly enough, in which everyone profits--there are no losers.

The faculty member has partial retirement as a real option. In the past, under the current statute, post-retirement service was not a real inducement to retire because the fixed post-retirement salary decreased in ~~long-term~~ *buying* power dramatically each year the teacher served (see attachment). Then, too, in the University System one was asked to work one-third of the year for one-fourth salary. Post-retirement service, in the past, has really not been very attractive.

The administrators would be helped greatly by SB 166. They desperately need open faculty lines for reallocation, particularly during budget stress.

The Teacher's Retirement System is favorable. If its fundamental purpose--to attract and hold good teachers--is to be served it must be able to provide attractive retirement plans. The retirement benefits themselves are being eroded by inflation and yet they have little chance of being tied to the cost of living. The unfunded liability involved would be too great. Here in SB 166, however, we have a very real retirement benefit--the option to work for one-third year as we now do but for the same pay as the non-retiree would receive for the same service--at minimal or zero cost to TRS since the salaries are paid by the school units.

The tax payer would benefit. All calculations show that the retiree's 1/3 salary plus that of his replacement is less than the full year salary of the senior faculty member who decides he cannot or will not retire. The net result is 1.33 times the faculty lines for about 7/8 the present cost.

Lastly, the students who really should be our first consideration, will profit greatly. Popular curriculum areas may soon be adequately staffed. Aggressive young teachers and researchers from America's best Universities of

the sort now available in the academic marketplace, can be hired with their fresh perspectives and ability to compete for the outside research dollars that keep alive our state's graduate programs at such low cost to the State.

We see in Senate Bill 166, then, the prospect of better education but at lower costs. We can do this by simply providing equitable salaries for teachers who elect partial retirement.

We hope that the House of Representatives will look just as favorably on this bill as the Senate did.

Thank you.

James W. Cox

PRESENT SITUATION (FINAL SALARY \$30,000)

TYPICAL INFLATION EFFECT ON

POST-RETIREMENT SALARY

10% INFLATION

REAL DOLLARS

YEAR ONE	\$ 6875	----- { PROFESSOR X WAS MAKING \$10,000 PER ACADEMIC QUARTER FOUR YEARS AGO.
YEAR TWO	\$ 6188	
YEAR THREE	\$ 5569	
YEAR FOUR	\$ 5012	
YEAR FIVE	\$ 4511	
YEAR SIX	\$ 4060	
YEAR SEVEN	\$ 3654	
YEAR EIGHT	\$ 3289	
YEAR NINE	\$ 2961	
YEAR TEN	\$ 2665	

PROPOSED MODEL (FINAL SALARY \$30,000)

A REPRESENTATIVE CASE

COLUMN I

COLUMN II

		<u>RETIREE</u>	<u>REPLACEMENT</u>
YEAR 1	\$ 32,400	\$ 10,800	\$ 18,000
2	34,992	11,664	19,440
3	37,791	12,597	20,995
4	40,814	13,604	22,674
5	44,079	14,693	24,487
6	47,605	15,868	26,446
7	51,413	17,137	28,561
8	55,526	18,508	30,845
9	59,968	19,989	33,312
10	64,765	21,588	35,977
	-----	-----	-----

\$469,353

Teacher does not
retire

\$156,448 + \$260,737

\$417,185

Teacher retires to
1/3 salary



MONTANA FEDERATION OF TEACHERS

AMERICAN FEDERATION OF TEACHERS

AFL-CIO



P.O. Box 1246

Helena, Montana 59624

(406) 442-2123



TESTIMONY OF JIM MCGARVEY, MONTANA FEDERATION OF TEACHERS, AFT, AFL-CIO, PRESENTED TO THE STATE ADMINISTRATION COMMITTEE OF THE MONTANA HOUSE OF REPRESENTATIVES IN SUPPORT OF SENATE BILL 166 ON MONDAY, MARCH 14, 1983.

Mr. Chairman and Members of the Committee:

I am writing to ask your support of Senate Bill 166. Let me call your attention to the major features of this legislation.

Under SB 166, any teacher in the State who is a member of the Teachers' Retirement System could collect the benefits to which he or she is entitled to under the retirement formula and still be permitted to work up to one third time as a teacher. The salary paid for this one third time post retirement service would be permitted to rise at the same rate as the salaries of the regular full time staff. SB 166 in no way compels schools to offer such employment to retirees.

SB 166 amends the current law on post retirement service in two small but important ways. First, under current law, post retirement service cannot exceed one quarter time. Second, as it now stands, post retirement salary cannot increase during the period of service. Obviously, the effect of SB 166 will be to ease the burden of retirement for teachers. It will allow them to earn a little more than they now can and what they can earn will be at least in part protected from the risk of inflation. SB 166 will therefore encourage retirement.

Why should retirement be encouraged? Simply because in the current period of declining enrollments, retirement is one of the most constructive and least disruptive ways of reducing the number of teachers in our schools and saving teaching dollars. By retaining older teachers part time we can take advantage of their experience and expertise. We can offer them the opportunity to continue to work at a level with which they are comfortable and productive. And we can reduce total teaching positions and costs.

In those situations where the position of a retiring teacher is to be filled by a newcomer, we can usually pay the full salary of the new teacher plus the one third salary of the retiree and still spend less than we would have had the retiring teacher continued to work full time. In other words we will fund one and one third teaching positions with fewer salary dollars than we previously spent on one position alone. Right now post retirement service is not wide spread in Montana outside the University system. Nationally, however, the American Federation of Teachers locals have negotiated for a variety of inducements to promote earlier retirement.



THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59620-2602

(406) 449-3024

March 14, 1983

COMMISSIONER OF HIGHER EDUCATION

TO: Representative Joe Brand, Chairman
House State Administration Committee

FROM: Carrol Krause *CK*
Deputy Commissioner for Academic Affairs

SUBJECT: Average Faculty Age -- Montana University System

As per your request, during the committee hearing on SB166, the average age of full-time faculty in the various units of the Montana University System has been identified. The averages are as follows:

Montana State University	44
University of Montana	45
Eastern Montana College	45
Montana Tech	46
Northern Montana College	49
Western Montana College	45
Systemwide average	45

Although I do not have an age distribution for all campuses, the distribution for the University of Montana will serve as a representative example:

Faculty	Percent
Over age 55	15
46 to 55	27
36 to 45	42
26 to 35	16

If you should need additional information please do not hesitate to contact me

CK/lw

cc: Senator Eck

WITNESS STATEMENT

Name Joel Hardy Committee On St Admin
Address 520 N Benton Helena Date 3/14/83
Representing Montana Colleges Support X
Bill No. S.B. 166 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. SB 166 provides a means to inject new teachers into the faculty.

2. It allows for the "Best of Both Worlds" retaining experienced instructors.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

ASMSU

03/14/83

To: The House Committee on State Administration

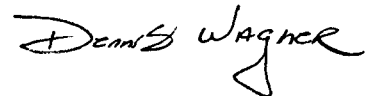
Mr. Chairman, Committee Members,

My name is Dennis Wagner, and I represent the Associated Students of Montana State University. We would like to go on record as supporters of SB 166. Students believe SB 166 to be a good bill for a number of reasons;

- 1) Retirement, under the current system is often such a financial uncertainty, that faculty put off retirement for as long as possible. This makes it difficult for students to receive instruction in needed specialty areas, unless some of those professors retire.
- 2) Retired professors would also find it more attractive to return to teaching for one quarter each year. This would allow the University greater flexibility in hiring experienced retired faculty, and students would gain the benefit of a broader based and more comprehensive range of instruction.
- 3) There are many trained, young, minds available to fill faculty positions as tenured faculty retire. Students need and appreciate dynamic and fresh academic instruction.

Lastly, and in summary, I would point out that the current system discourages retired faculty from working. I urge your support of a measure that is advantageous to students, faculty, and administration, at little or no cost to the state.

Thank-you



DENNIS WAGNER
ASMSU Lobbyist

Some legislators have expressed the concern that promoting earlier retirement will change the balance between the teachers contributing to the TRS and those receiving benefits. It is important to realize that individuals who retire early receive lower benefits. After thoroughly examining the implications of SB 166, the TRS Board has concluded that the plan is actuarially sound and supports this legislation.

We believe that SB 166 is good for both teachers and school systems. We ask for your support.

VISITORS' REGISTER

HOUSE State Administration COMMITTEEBILL SB 436Date 3/14/83

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
OPAL Winebrenner	Helena	Public Service Commission	✓	
Tom Dowling	Helena	Mont. RR Assn	—	
Tom Schneider	Helena	Public Service Comm.	✓	
GENE PHILLIPS	KALISPELL	PACIFIC POWER & LIGHT	✓	
John Allen	Helena	Mont. Consumer Cncl	✓	
John Alke	Helena	M DU	✓	
Jim Hughes	Helena	MOUNTAIN BELL	✓	
Bob Quinn	Helena	Mont Pass Co.	✓	
Merwin E. Montyala	Fernistown	Winter "M" Disposal		✓
MORRIS GUNNICKSON	LIVINGSTON	UNITED TRANSPORTATION UNION	✓	
James Mular	Butte	B. B. A. C. RPy	✓	
Cl. Hunter	Boz. Mt. way Corp		✓	
Mike Stepha	Helena	MT Assoc. of Cs	✓	
Alec Hansen	Helena	LEAGUE OF CITIES	✓	
Bill Spitz	Helena	Mont PSC	✓	
Poul S. Pistorius	Helena	State Rep -		✓
		12% protest		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name OPAL Winebrenner Committee On State Admin
Address Helena Date 3-14-83
Representing Public Service Commission Support ✓
Bill No. SB 436 Oppose _____
Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34

1-83

MONTANA PUBLIC SERVICE COMMISSION SUMMARY
OF THE
LEGISLATIVE AUDIT COMMITTEE BILL
SENATE BILL NO. 436
(SENATE THIRD READING COPY)

1. Re: Sunset Provision (Page 2, Beginning Line 11).

The bill amends MCA §2-3-103(1) (g) "Agencies to terminate" by removing the reference to the "Public Service Commission, Department of Public Service Regulation" and redesignating the sequence in subsection (3), and inserting a new subsection (6) that states the "Public Service Commission, Department of Public Service Regulation" will terminate on July 1, 1989.

SENATE ACTION: Approved.

COMMISSION: Support.

2. Re: Fees Charged By Commission (Page 7, Beginning Line 2).

A new section is added that will require all fees charged by the Commission to be commensurate with the costs incurred in administering the function for which the fee is being charged.

SENATE ACTION: Accepted the Commission's amendatory language "except those fees set by federal statute." Senate amended section to place \$500.00 maximum for any fee charged by the Commission.

COMMISSION: Support as amended. See attached Commission Position Statement concerning federal fees.

3. Re: Effective Date for MCA Title 69, Chapter 7 "Municipal Utilities" (Page 7, Beginning Line 7).

Chapter 7 was originally passed by the Legislature as a temporary Chapter to be terminated July 1, 1983. The termination date has been eliminated so Chapter 7 becomes permanent. (This chapter concerns the partial deregulation of municipal utility services.)

SENATE ACTION: Approved.

COMMISSION: Neutral.

4. Re: Removal of county water/sewer districts and privately owned water/sewer associations from "public utility" definition (Page 8, Beginning Line 7).

MCA §69-3-101 "Meaning of public utility" is renumbered to provide for a new subsection(2) which defines a public utility as not including county or consolidated city and county water/sewer districts as defined in MCA Title 7, Chapter 13, or privately-owned and operated water/sewer systems which do not serve the public, e.g. water associations.

SENATE ACTION: Approved.

COMMISSION: - Support. Proposed language clarifies Commission's regulatory jurisdiction over water and sewer service entities which has been the subject of litigation.

- Commission proposes an amendment to make only this Bill section effective upon passage and approval of the Act.

5. Re: Amendments to MCA §69-3-204 "Fees to be charged by Commission." (Page 8, Beginning Line 13).

Subsection(1) of MCA §69-3-204 is amended to allow the Commission discretion in determining whether to charge fees for filing annual reports, schedules and supplements, to add filing of applications to what fees can be charged for, and to eliminate (a) through (d) of the subsection that provides a specific fee schedule. Language requiring commission to charge fees for copies of orders, and other instruments is eliminated.

SENATE ACTION: Amended section to eliminate "applications" from list of documents for which fees could be charged.

COMMISSION: Support as amended.

6. Re: Amendments to MCA §69-3-304 "Temporary approval of rate increases" (Page 9, Beginning Line 10).

Amendments would allow the Commission to also temporarily approve rate decreases pending a rate application hearing or the Commission's final decision on a rate application.

If the Commission's final decision is to disapprove the temporary rate decrease, the Commission has the discretion to order all consumers to pay a surcharge for the amount that was not collected retroactive to the date of the temporary approval.

The Commission is also granted the discretion to order that interest, as determined by the Commission, be assessed on the surcharge.

Also provides that the Commission's decision to approve or deny a temporary rate decrease is an intermediate agency action, and a party may seek judicial review of that action under the Montana Administrative Procedure Act.

SENATE ACTION: Amended section to make the assessment of interest on surcharges or rebates mandatory, and to require the Commission, when granting a temporary rate decrease, to use the same standards as when it grants a temporary rate increase.

COMMISSION: Support, but proposes its own amendment concerning standards to be used in granting a temporary rate decrease.

7. Re: Clarifying Amendments to Title 69, Chapter 7 "Municipal Utilities" (Page 10, Beginning Line 3).

(A) Amends MCA §69-7-101 "Municipal-utilities regulation by municipality-limitation," to clarify that the phrase "annual

revenues" for purposes of Chapter 7, means any consecutive 12 month period. (Page 10, Beginning Line 17).

SENATE ACTION: Approved.

COMMISSION: Support if Commission's regulatory jurisdiction over municipal utilities is retained.

(B) Amends MCA §69-7-102 "Rate increases over maximum" to provide that if the Commission issues a final order concerning a municipality's rates, the municipality is prevented from increasing its rates for a period of 12 months following the Commission's order. A municipality may increase rates during such a 12 month period, however, if the increases are required to finance the local government's share for mandated federal or state capital improvements. (Page 11, Beginning Line 4).

SENATE ACTION: Approved.

COMMISSION: Support if Commission's regulatory jurisdiction over municipal utilities is retained.

(C) Removes requirement in MCA §69-7-111 "Municipal Rate Hearing" that a municipality must mail notice of rate hearing by sending the notice with the monthly bill for utility services; municipality still required to mail notices no more than 30 days prior to the rate hearing. (Page 12, Beginning Line 2).

Provides that notice of rate hearing contain an estimate of customer's average bill thereby removing requirement that estimate must be of a "monthly" bill. (Page 12, Beginning Line 5).

SENATE ACTION: Approved.

COMMISSION: Neutral.

8. Amendments to subsection(3) of MCA §69-12-311, 312, 313
Re: Motor carrier certificate Application filing fee.
(69-12-311: Page 12, Beginning Line 17; 69-12-312: Page 14, Beginning Line 4; and 69-12-313: Page 16, Beginning line 23.)

Subsection (3) in MCA §69-12-311, §69-12-312, and §69-12-313 is amended to allow the Commission to set filing fees for Class A, B, and C motor carrier certificate applications and removes specific language re: amount of fee and requirement that filing fee be determined by number of counties for which certificate is requested. These amendments will be consistent with proposed language of MCA §69-12-423 "Fees to be charged by Commission."

SENATE ACTION: Approved.

COMMISSION: Support.

9. Amendment to MCA §69-12-313(1) "Class C motor carrier certificate. (Page 15, Beginning Line 14).

Subsection (1) in MCA §69-12-313 is amended to specifically refer to MCA §69-12-324 "Special provisions when federal or state contract involved.", rather than having the contract exception language of MCA §69-12-324 contained in Subsection (1).

SENATE ACTION: Approved.

COMMISSION: Support.

10. Amendment to MCA §69-12-321(1) "Hearing on Application for motor carrier certificate." (Page 17, Beginning Line 12).

Subsection(1) is amended to simply refer to MCA §69-12-324 concerning Class C carriers who have contracts with a government department or agency, rather than having the contract exception language of MCA §69-12-324 contained in the Subsection (1).

SENATE ACTION: Approved.

COMMISSION: Support.

11. Amendments to MCA §69-12-324 "Special provisions when federal or state contract involved." (Page 19, Beginning Line 3)..

Subsection(1) is revised to more clearly define a transportation movement for the purposes of this section: If a federal government contract is involved, the transportation movement must involve for hire movement of people or commodities. If a state or local government contract is involved, the transportation movement must involve the transportation of solid waste.

Subsection(1)(2) and (3) are amended to include "local government contracts."

SENATE ACTION: Removed proposed amendatory language that included "local governments". Amended section to reinsert statutory language, that was inadvertently crossed out in bill, to provide that presentation of a federal or state government contract will establish public convenience and necessity for the purposes of Section 69-12-324, MCA.

COMMISSION: The Commission proposes an amendment to include "local governments". Please see the attached Commission Position Statement.

12. Amendments to MCA §69-12-406 "Restriction on transportation of certain waste." (Page 21, Beginning Line 4).

New language is added to refer to the exception in MCA §69-12-324 that would allow Class A, B, or C carriers to transport solid waste under a government contract.

SENATE ACTION: Approved.

COMMISSION: Support.

13. Amendments to MCA §69-12-421 "Annual fee for motor carriers." (Page 21, Beginning Line 11).

Subsection(1) is amended to change the dates by which motor carriers must pay their annual fees to the Commission from "on or between January 1 and January 15" to "on or between October 1 and the immediately following January 31."

Subsection (1) is also amended to remove language requiring the annual fee to be \$5.00, and adding new language to allow the Commission to set the annual fee.

SENATE ACTION: Approved.

COMMISSION: Support. Proposed language will bring filing dates into conformity with federal statutes. Language to allow Commission to set the annual fee is consistent with proposed language of MCA §69-12-423 "Fees to be charged by Commission."

14. Amendments to MCA §69-12-423 "Fees to be charged by Commission." (Page 22, Beginning Line 10).

Subsection(1) is amended to grant the Commission discretion in determining whether to charge fees for sales and leases of motor carrier certificates, public convenience and necessity applications, schedules and supplements. Language requiring the Commission to charge fees for copies of orders and other documents/instruments and (a) through (e) of the subsection that provided a fee schedule, are eliminated.

SENATE ACTION: Approved.

COMMISSION: Support.

15. Amendments to MCA §69-12-501 "Rate schedules to be maintained." (Page 23, Beginning Line 10).

Adds Class D motor carriers on the assumption that the Legislature will adopt other legislation requiring Class D carriers to be rate regulated by the Commission. Language is added to clarify that the service rates charged by Class D carriers on January 1, 1983, will be grandfathered and serve as the lawful rates until changed by the rate procedures allowed in Chapter 12.

SENATE ACTION: Approved amendment to remove Section 69-12-501, MCA from the bill, thus retaining the Section as it is currently.

COMMISSION: Neutral.

16. Amendments to MCA §69-12-502 "Prohibition on deviation from rate schedules." (Page 24, Beginning Line 10).

Language to include Class D carriers is added for consistency with MCA §69-12-501 on the assumption that these carriers will be rate regulated.

SENATE ACTION: Approved amendment to remove Section 69-12-502, MCA from the bill, thus retaining the Section as it is currently.

COMMISSION: Neutral.

17. Amendment to MCA §69-14-115 "Investigation, enforcement and report concerning railroad safety laws." (Page 25, Beginning Line 8).

Commission enforcement of railroad safety laws is made permissive by the amendment to strike "shall" and insert "may".

SENATE ACTION: Approved Commission's amendment to retain the current mandatory language of Section 69-14-115, MCA, i.e. "shall."

COMMISSION: Support as amended by Senate, and proposes amendment to strike the bill section, see attached Commission Position Statement.

18. Amendment to MCA §69-14-116 "General protection of health and safety on railroads." (Page 26, Beginning Line 3).

Commission regulation of health and safety standards on railroads is made permissive by subsection(1), with the amendment to strike "shall" and insert "may".

SENATE ACTION: Approved Commission's amendment to retain the current mandatory language of Section 69-14-116, MCA, i.e. "shall."

COMMISSION: Support as amended by Senate, and proposes amendment to strike the bill section. See attached Commission Position Statement.

19. Amendments to MCA §69-14-202 "Duty to furnish shipping and passenger facilities." (Page 26, Beginning Line 21).

Subsection(1) and (2) are amended to provide that if a railroad maintains and staffs facilities for the shipment and delivery of freight and/or accomodation of passengers, the railroad cannot discontinue or remove any agency, i.e. the station agent, or any station facility without a public hearing before the Commission.

Language is deleted that required railroads to maintain staff and facilities when they were located in cities or towns with populations (according to the most recent U.S. Census) of not less than 1,000.

SENATE ACTION: Senate removed Section 69-14-202, MCA from the bill, thereby retaining the Section with its current language.

COMMISSION: Neutral. The Commission has enforced this Section and refused to allow a railroad to close any station facilities when the station was the last one in a county or was located in a city or town with a population not less than 1,000.

The Burlington Northern Railroad Company has sued the Commission in federal district court concerning the constitutionality of the Section.

Since the Section is one that the Commission must enforce, the Commission has argued in the suit that the Section is constitutional. There has been no decision in the case as of March 14, 1983.

Commission will abide by the Legislature's policy determination on whether or not to remove the population and last station in the county requirements.

PUBLIC SERVICE COMMISSION

1227 11th Avenue • Helena, Montana 59620

Telephone: (406) 449-3007 or 449-3008

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

EXPLANATION OF AMENDMENT TO SENATE BILL NO. 436

Page 7, Beginning Line 5 "except those fees set by federal statute".

Federal law presently provides for the maximum fees that states can assess motor carriers for registration of interstate authorities and purchase of Vehicle Identification Stamps. Montana and the majority of other states assess the maximum fee provided by law. The Vehicle Identification Stamp fee applies to all vehicles used by regulated carriers, whether those carriers are based in Montana or not. To date, the Commission has sold more than 155,000 1983 Vehicle Identification Stamps at \$5.00 per stamp.

Approximately 90 to 95 percent of the carriers ordering these stamps are based outside of Montana.

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

SENATE BILL 436 (Senate Third Reading Bill Copy)

RE: Section 69-12-324, MCA "Special Provisions When Federal
or State Contract Involved."

PAGE 19 BEGINNING LINE 3

MONTANA PUBLIC SERVICE COMMISSION POSITION STATEMENT

This section of Senate Bill 436 proposes to allow local governments the same contracting rights as now possessed by the federal and state governments. Under existing statute, any carrier who has a contract for transporting any commodity for the United States government or a contract for the transportation for solid waste with any state agency can present that contract to the Public Service Commission and receive a certificate of public convenience and necessity for the duration of the contract. Under this bill local governments would also be allowed to issue contracts for the transportation of solid waste, and the PSC could then issue a certificate of public convenience and necessity based on that contract.

The Public Service Commission supports this legislation for the following reasons:

1. Review by two governmental bodies (local governments and the Public Service Commission) of a carrier's ability to transport solid waste is both unnecessary and costly to the State of Montana. Once a local government entity (city, county, or district) has advertised for bids based upon its specifications and has awarded a contract for the transportation movement of solid waste, further review by the Public Service Commission is not only unnecessary, but may result in an overturning of the bid process based upon the present statutes, therefore resulting in a higher cost to the consumer in the area.
2. Local governments are in a much better position to monitor the service provided by the contractors and to take corrective action if they find it is needed for the protection of the health and welfare of their constituents.
3. It should be noted that any certificate of public convenience and necessity issued under this legislation will expire at the end of the contract period. Present solid waste carriers are protected under Section 7-13-4107, MCA, which states that existing carriers must be given five years notice or paid fair market value for their equipment if the community elects to provide exclusive garbage or solid waste service.

Consumer Complaints (406) 449-4672

"AN EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER"

4. It should be pointed out that the Public Service Commission would still maintain, under this procedure, jurisdiction over insurance and vehicle safety and the PSC would assist local governments in all vehicle safety related matters.

It is the position of the Montana Public Service Commission that once a local government has advertised, accepted bids and made a decision on who to use to transport solid waste in its area, through the awarding of a contract, a presentation of that contract to the Commission should be enough evidence for the Commission to grant a certificate without further review.

The Montana Public Service Commission supports this section of Senate Bill 436 as a means of reducing the bureaucracy and review by two governmental agencies of a bonafide contract between a local government and a carrier who wishes to transport solid waste, and to provide the local government the ability to decide which carriers would best serve its constituents.

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3008

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

SENATE BILL 436 (Senate Third Reading Bill Copy)

RE: Section 69-14-115, MCA, "Investigation, enforcement, and report concerning railroad safety laws", Page 25, Beginning Line 8.

Section 69-14-116, MCA, "General protection of health and safety on railroad", Page 26, Beginning Line 3.

MONTANA PUBLIC SERVICE COMMISSION POSITION STATEMENT RE: RAIL SAFETY

The Montana Public Service Commission supports Senate Bill 436, as amended by the Senate, which retains the mandatory enforcement of railroad safety laws in Montana rather than making the enforcement permissive. The Commission feels that the State of Montana needs to have its own rail inspector. Some reasons for this include:

1. There are safety and sanitary conditions set out by Montana statutes that Federal inspectors have no jurisdiction over. (i.e.: conditions inside cabooses.)
2. The State of Montana has priorities for track inspections which may differ from those of the Federal Government. At the present time, the State has no voice in what lines should be inspected or how often the inspections should be made. (i.e.: The State of Montana may have a priority of maintaining conditions on branch lines to see that adequate service is provided.)
3. The Commission has in the past legislative sessions been on record requesting a rail inspector position from this legislature, and is again this year requesting a position through our budget process.

It is the Commission's opinion that rail safety is important to the State of Montana and that all efforts to institute a rail inspection program should be taken. The Commission urges your support of the Senate's amendatory language in these two statutes, and to support the Commission in its efforts to obtain funding for a State Rail Inspector.

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3008

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

PROPOSED AMENDMENT TO SENATE BILL NO. 436
(SENATE THIRD READING COPY)

Re: Effective date for Bill Section 5 concerning
Section 69-3-101, MCA.

Explanation of Amendment :

The Commission supports making the Bill section that removes county water and sewer districts and privately owned and operated water associations from Commission regulatory jurisdiction effective immediately upon passage and approval of SB No. 436.

Page 27, Line 24

Following "1983"

Strike: "."

Insert: ", except Section 5 is effective upon passage and approval of this Act".

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3008

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

PROPOSED AMENDMENT TO SENATE BILL NO. 436

(SENATE THIRD READING COPY)

RE: Amending Section 7 of SB No. 436 concerning Section 69-3-304, MCA.

1. Page 9, Line 24.

Following: "be"

Strike: "BASED ON IDENTICAL STANDARDS"

Insert: "based upon consistent standards appropriate
for the nature of the case pending"

WITNESS STATEMENT

Name MORRIS GUNNICKSON Committee On ST. ADIM
Address LIVINGSTON, MT. Date 3/14/83
Representing UNITED TRANSPORTATION UNION Support X
Bill No. SB 436 Oppose
Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WE SUPPORT THIS BILL AS AMMENVED IN THE SENATE AS
TO THE RAIL PORTION, AND THE ST. TRACK INSPECTOR

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name JIM MUEAR Committee On ST. ADAM
Address ROUTE 117 Date 3/14/83
Representing B.R.A.C. Support X
Bill No. SB 436 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WE SUPPORT THIS BILL - PERTAINING TO THE RAILROAD SECTION - ESPECIALLY THE RAIL STATION AGENCY PORTION
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Carl Knutson Committee On _____
Address 220 So. Pearson Date March 14, 1983
Representing Brotherhood of Mtr. of way Emp. Support we support
Bill No. Senate Bill 436 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We support the railroad portion of bill as presented by the Senate.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.