

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 14, 1983

The fourth-sixth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the 14th day of March 1983 in room 331 at 10:00 a.m. in the State Capitol Building in Helena, Montana.

ROLL CALL: Roll was taken and all members were present but Senator Lee.

The meeting was called to hear House Bills 151, 222, 296, 674 and 688.

CONSIDERATION OF HOUSE BILL 151:

"AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V. SECTION 14, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE CONGRESSIONAL DISTRICTS IN MONTANA BE REDISTRICTED WITHIN 90 DAYS AFTER THE OFFICIAL FINAL DECENTNIAL CENSUS FIGURES ARE AVAILABLE: AND PROVIDING AN EFFECTIVE DATE."

REPRESENTATIVE RAY PECK, District 8, Havre, Montana, presented this bill. This bill endorses the act to submit to the qualified electors the question of changing the time frame for congressional redistricting. Montana and Maine were the last two states working on this. In the last election, had either of the congressional house races been within 15 votes there would have been a court case. We are not in proper balance. Current law has both congressional and state redistricting in one action and one filing. This bill separates those and says within 90 days after receiving official census information the apportionment commission will have made their filing.

CONSIDERATION OF HOUSE BILL 222:

"AN ACT AMENDING SECTIONS 5-1-101, 5-1-106, and 5-1-108 through 5-1-111, MCA, TO PROVIDE STATUTORY CONFORMITY TO THE CONSTITUTIONAL AMENDMENT TO ACCELERATE MONTANA'S CONGRESSIONAL REDISTRICTING PROCESS; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

REPRESENTATIVE PECK, District 8, said that House Bill 222 is statutory changes necessary to implement House Bill 151. It simply separates the two processes so the legislative redistricting is separate from the congressional redistricting.

PROPONENTS: None.

OPPONENTS: None.

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QUESTIONS OF THE COMMITTEE:

SENATOR STORY asked how many votes did this get in the House?

REPRESENTATIVE PECK said it was unanimous with three members absent. He closed on H.B.151 and H.B.222.

Dave Cogley stated that an amendment is needed on House Bill 222 to coordinate with House Bill 151.

Page 3, line 16

Strike: "at the November 6, 1984, general election"

SENATOR TOWE MOVED THE ABOVE AMENDMENTS.
MOTION PASSED.

CONSIDERATION OF HOUSE BILL 296:

"AN ACT TO TRANSFER THE BOARD OF VETERANS' AFFAIRS FROM THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF MILITARY AFFAIRS: RENUMBERING SECTIONS..."

REPRESENATIVE HAL HARPER, District 30, presented this bill by saying that under reorganization, the board found itself under SRS and according to testimony that he has heard that is the only reason it found itself under that department at that time. It only makes sense that a light function goes under a light department. This board was established in 1981 and will not sunset until 1987. There is a cost savings that will be realized.

PROPONENTS:

GENERAL JIM DUFFY, Director of the Department of Military Affairs, confirmed Representative Harper's statements and asked that H.B. 296 Do Pass.

JUDITH CARLSON, Deputy Director of Department of Social Rehabilitation, said they have enjoyed their association with the Board of Veterans' Affairs but recognized the need of transfer.

TOM CUMMINGS, State Adjutant of the American Legion said they are taking this into consideration themselves and feel the board will be best served in the Military Affairs.

BOB DURKEE, Veterans of Foreign Wars, stated that they favor passage of H.B. 296.

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MICHAEL WOLF, Administrator of the Veterans' Affairs Commission, said that he concurred with the statements made.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE: None. CLOSED ON H.B. 296.

SENATOR HAMMOND MOVED H.B. 296 BE CONCURRED IN.
MOTION PASSED. Senator Hammond will carry this bill.

CONSIDERATION OF HOUSE BILL 674:

"AN ACT REQUIRING THAT WORKERS' COMPENSATION BENEFITS RECEIVED BY A MEMBER OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM BE INCLUDED AS PART OF THE MEMBER'S MONTHLY COMPENSATION RECEIVED DURING A DISABILITY PERIOD FOR THE PURPOSES OF DETERMINING CONTRIBUTIONS AND SERVICE CREDITS UNDER THE RETIREMENT SYSTEM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

REPRESENTATIVE MC BRIDE, District 85, presented this bill at the request of the Public Retirement System. This bill allows for contributions to the firefighters unified retirement system while a firefighter is disabled. They want to make sure that if the firefighter is going to receive the total credit for the years that there is in fact a contribution for those creditable years. This will allow for contributions to be made not only for the portion he would receive from the city but also for a contribution from what he would receive from workmens' compensation. She stated a situation where a particular person went on workers' compensation thinking he would go back to work but instead retired due to doctors orders. He did not have the full contribution in the retirement system, his retirement was low.

PROPONENTS:

LARRY NACHTSHEIM, Department of Administration, PERD, presented testimony, EXHIBIT 1.

MIKE WALKER, Montana Council of Firefighters, testified and gave the circumstances of the individual Representative McBride referred to and stated his support of the bill.

QUESTIONS OF THE COMMITTEE:

SENATOR STORY asked if the city pays the workmens' compensation?

Mr. Nachtsheim said that the city of Butte sent the contribution based on his normal salary but they cannot use it because he only paid 30% of his salary.

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SENATOR TOWE asked where it says the city must pay workmens' compensation. He read from the codes and the bill.

MR. NACHTSHEIM said that they have an agreement outside the statutes.

SENATOR TOWE asked if all of them have that agreement.

MR. NACHTSHEIM said that Billings does not, they took it out.

SENATOR TOWE stated, then those people in Billings get nothing, is that right.

MR. NACHTSHEIM said in Billings, they would only get 67% of service. This will only go for a year as employee status and they would then come under the retirement. The pension has a disability clause. CLOSED ON H.B.674.

ACTION ON HOUSE BILL 674:

SENATOR TOWE MOVED H.B.674.

MOTION PASSED. Senator Manning will carry this bill.

CONSIDERATION OF HOUSE BILL 688:

"AN ACT ESTABLISHING PROCEDURES FOR TRANSFERRING SERVICE CREDITS BETWEEN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND TEACHERS' RETIREMENT SYSTEM; AMENDING..."

REPRESENTATIVE SALES, District 79, introduced H.B.688 and said it deals with the transfer when a person wants to transfer from teachers' retirement to PERS or visa-versa and determines the effect on the two boards when this transfer is made so no one will get stuck. See attachment following EXHIBIT 1.

PROPONENTS:

LARRY NACHTSHEIM, Administrator Public Employees' Retirement Division, presented testimony, EXHIBIT 2.

BOB JOHNSON representing Teachers' Retirement System stated that he does support the bill for basically the same reasons Mr. Nachtsheim and Representative Sales indicated. He said there are two differences in their section of the law; one that provided that members would have to have 5 years in the teachers' retirement system in order to qualify for military service and out-of-state teaching service while on leave. This is not available in PERS and we do not think we should have the liability for that service until they have completed the 5 years in their system. The second section that differs is, in the event, to determine if a member is improperly classified, the employee would have to remit to the teachers retirement the difference in contributions.

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There were no other proponents.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT asked which board, on lines 21 and 22.

MR. NACHTSHEIM said that the first section is Public Employment Retirement Board and the second section is the Teachers' Retirement Board.

SENATOR HAMMOND asked if he were sure both will be in better shape.

MR. JOHNSON replied "yes".

SENATOR HAMMOND asked if they have had situations where they move from one system to the other.

MR. JOHNSON said that they have people, like in the university system, where their membership classification may be a gray area, they may be an administrative officer but in PERS they know the teachers' retirement gets free military service. This will correct that. CLOSED ON H.B.688.

ACTION ON HOUSE BILL 688.

SENATOR HAMMOND MOVED H.B.688

MOTION PASSED. Senator Hammond will carry the bill.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 151:

Dave Cogley presented Senator Towe's amendment and Senator Marbut's amendments.

SENATOR MARBUT MOVED THE FOLLOWING AMENDMENTS:

1. Page 3, line 12.

Following: "available"

Insert: "and eliminating provisions for legislative comment"

2. Page 3, line 15.

Following: "available"

Insert: "and eliminating provisions for legislative comment"

MOTION PASSED.

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MOTION WAS MADE BY SENATOR MARBUT HOUSE BILL 151 BE CONCURRED IN AS AMENDED.

MOTION PASSED. Senator Marbut will carry this bill.

ACTION ON HOUSE BILL 222:

SENATOR MARBUT MOVED THE AMENDMENT.:

Page 3, line 16.

Following: "elected"

Strike: "up to November 6, 1984"

MOTION PASSED.

SENATOR HAMMOND MOVED HOUSE BILL 222 AS AMENDED PASS.

MOTION PASSED.

ACTION ON HOUSE BILL 199:

There was discussion of the bill. It was mentioned that they should be aware of 10-3-103, disruption of state services. Dave Cogley, legal staff, brought out the question of the coverage by workers' compensation of people involved while on duty. Presently they are not able to be because of the striken language. He presented a letter from Workmans' Compensation. EXHIBIT 3.

SENATOR MARBUT MOVED H.B. 199 BE CONCURRED IN.

MOTION PASSED. Senator Stimatzz voted "no". Senator Marbut will carry the bill.

ACTION ON HOUSE BILL 107: HOLD.

This was discussed and the decision was to hold it.

ACTION ON HOUSE BILL 528: HOLD.

The decision was to hold this bill so the amendments can be compared.

ACTION ON HOUSE BILL 776:

SENATOR HAMMOND MOVED THE AMENDMENTS TO H.B. 776, EXHIBIT 4.

MOTION PASSED.

SENATOR STIMATZ MOVED H.B. 776 BE CONCURRED IN AS AMENDED.

MOTION PASSED. Senator Stimatzz will carry the bill.

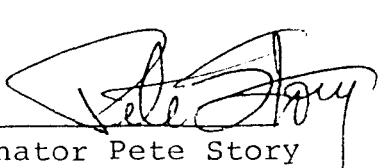
ACTION ON HOUSE BILL 329: HOLD.

Discussion was heard. Senator Story stated the Lombardie and Harper trial.

SENATOR TOWE MOVED HOUSE BILL 329 BE CONCURRED IN.

More discussion led to having the bill held until the next meeting.

The meeting adjourned at 11:30 a.m.


CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/14/83

SENATE
SEAT

Each day attach to minutes.

3/14/83

State Adm. 3/14/83

This bill is proposed to permit the retirement division to comply with practices currently found in local negotiated contracts. In 1981 when the Unified Firefighters' Act was passed, no consideration of this issue was included.

The effect of the bill is to permit a disabled firefighter to continue his contributions to the system and permit the city to make their contributions on both the workers' compensation benefit and the supplemental payment made by the city to bring firemen up to 100% of base salary. This is critical to firemen who retire because of their disability as the duration of the disability payments are limited to one year and this is the base year for retirement calculations; the immediate year prior to retirement.

In the case that brought this to our attention, it reduced the firemen's pension by about \$105 dollars per month; instead of \$717.50, the disabled firefighter is receiving \$612.65.

This is the only case in the past 20-month period since the inception of the firefighters' system.

This bill will correct this inequity for this fireman and place the fire system on the same basis as current members of the police officers' system.

Larry Nachthaus

PEND

Proponent

HOUSE BILL 688 - Sales

This bill introduced at the request of the Public Employees' Retirement Division, was drafted in concert with the Teachers' Retirement System.

It repeals the current general statute found in 19-3-507 defining the procedures for transfer of credits between the two systems and provides specific criteria for service credits and amounts to be transferred between the systems.

Section 1 - provides the method for transferring credits from TRS to PERS.

Section 2 - provides the method for transferring credits from PERS to TRS.

Section 3 - deletes a cross citation to the repealed section and is no longer pertinent.

Section 4 - is the repealer of 19-3-507.

Section 5 - is the codification instructions.

Section 6 - provides an effective date of July 1, 1983.

HOUSE BILL 688 - SALES -

Larry Nachtsheim - Administrator
Public Employees' Retirement Division

February 14, 1983

EXHIBIT 2
State Admin.
3/14/83

3/14/83
Proponent

This bill repeals section 19-3-507, the current provision for transferring credits between the Public Employees' Retirement System and Teachers' Retirement System. The current statute is very general and permits the two systems to make transfers determined by mutual agreement of the two Boards.

Both systems are subject to legal interpretation of the statute by two outside authorities--the Attorney General through Attorney General Opinion and the Courts through case law.

In the past, both outside authorities have interpreted statute in one system, which has created liabilities for the other systems; due to employees that have transferred.

In this proposed bill, drafted jointly by the Public Employees' Retirement System and Teachers' Retirement System, the amount of service credit and the method of finance has been defined in such a manner that court decisions with retroactive effect in one system will not create any liability for the second system.

Section 1 details the procedures for transfers from Teachers' Retirement System to Public Employees' Retirement Division. One page 2, line 10, we have defined the amount of the employees contributions required for transfer from Teachers' Retirement System to Public Employees' Retirement Division as the amount the employee withdrew from Teachers' Retirement System. Here, the employee received the same credit in the Public Employees' Retirement System as they enjoyed in Teachers' Retirement System for the same employee cost on a month-for-month basis (page 2, line 17). Any additional cost for assuming the liability is paid by the Teachers' Retirement System to the Public Employees' Retirement System, based on the assumption that Teachers' Retirement System has received required funding for all current creditable service (Page 2, line 5).

On page 2, line 21, the authority for determining the amount of service creditable to Public Employees' Retirement System is placed with the Public Employees' Retirement Board.

In the event of death while a transfer of credit from Teachers' Retirement System to the Public Employees' Retirement System is being made, the remedies of the employee's beneficiary are detailed on page 3, line 1.

Section 2, with minor differences, reflects the transfer of credits from the Public Employees' Retirement System to Teachers' Retirement System.

Amendment

HB 776

(3rd reading)

EXHIBIT 4
State Adm.
3/14/83

1. Title, line 8.

Strike: " AND AIRCRAFT "

2. Page 6, line 15

Strike: " WHOSE PRINCIPAL BUSINESS IS aviation "

3. Page 6, lines 20 and 21

Following: "(e)"

Strike: remainder of lines 6 and 7 in their
entirety

Inset: "one representative of the Montana
airport management association;"

4. Page 14, line 15

Strike: " AND AIRCRAFT "

5. Page 14, line 16

Strike: " AND AIRCRAFT "



DIVISION OF
WORKERS'
COMPENSATION



EXHIBIT 3
State Admin
3/14/83



TED SCHWINDEN, GOVERNOR

815 FRONT STREET

STATE OF MONTANA

HELENA, MONTANA 59601

March 4, 1983

Re
WBD 199

Captain Kenneth E. Cottrill
Centralized Service Administrator
Department of Military Affairs
Army National Guard Headquarters
Helena, Montana

Re: Coverage of National Guard personnel

Dear Captain Cottrill:

This letter will confirm our telephone conversation earlier today concerning the matter referenced above.

House Bill No. 199, by Section 13, repeals Section 10-1-504, Montana Code Annotated. You indicated to me during our telephone conversation a concern that the repeal of this section may not effect the result you desire, namely, that a member of the organized militia who is injured while performing services for the State of Montana be eligible for workers' compensation benefits. At that time, I indicated to you my belief that the only impediment to the receipt of workers' compensation benefits was this particular statute and that with its repeal the eligibility for workers' compensation benefits was thereby created.

Sincerely,

WILLIAM BAILEY DUNN
Chief Legal Counsel

WBD/nmb

Approved by
on 3/7/83

3832

STANDING COMMITTEE REPORT

.....MARCH 14.....1983.....

MR. PRESIDENT.....

We, your committee on.....**STATE ADMINISTRATION**.....

having had under consideration**HOUSE**..... Bill No. 296.....

Harper (Hammond)

Respectfully report as follows: That.....**HOUSE**..... Bill No. 296.....

BE CONCURRED IN

~~SENATOR PETE STORY~~

STANDING COMMITTEE REPORT

MARCH 14

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MR. **PRESIDENT**.....

We, your committee on **STATE ADMINISTRATION**.....

having had under consideration **HOUSE**..... Bill No. **674**.....

McBride (Manning)

Respectfully report as follows: That **HOUSE**..... Bill No. **674**.....

BE CONCURRED IN

XXXXXASS

STANDING COMMITTEE REPORT

MARCH 14

83

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PRESIDENT

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

688

having had under consideration Bill No.

Sales (Hammond)

HOUSE

688

Respectfully report as follows: That Bill No.

BE CONCURRED IN

XXXXXX

STANDING COMMITTEE REPORT

MARCH 14

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MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 222

Peck (Marbut)

Respectfully report as follows: That HOUSE Bill No. 222

third reading, be amended as follows:

1. Page 3, line 16.

~~Strike: "at the November 6, 1984, general election"~~

And, as so amended
BE CONCURRED IN

DKXASGX

STANDING COMMITTEE REPORT

MARCH 14

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MR. **PRESIDENT**

We, your committee on

STATE ADMINISTRATION

having had under consideration

HOUSE

Bill No. **199**

Addy (Marbut)

Respectfully report as follows: That.....

HOUSE

Bill No. **199**

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

MARCH 14

83

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PRESIDENT

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

151

having had under consideration

Peck (Marbut)

HOUSE

151

Bill No.

Respectfully report as follows: That.....
third reading, be amended as follows:

1. Page 3, line 12.
Following: "available"
Insert: "and eliminating provisions for legislative comment"
2. Page 3, line 15.
Following: "available"
Insert: "and eliminating provisions for legislative comment"
3. Page 3.
Following: line 15
Insert: "Section 4. Coordination instruction. If H.B.629
introduced in the 48th Legislature is not passed and
approved, the date 'November 6, 1984' in section 3 of
this act is changed to 'November 8, 1983'."

And, as so amended

BE CONCURRED IN

507486

STANDING COMMITTEE REPORT

MARCH 14

19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 776

SHONTZ (STIMATZ)

HOUSE

776

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

third reading, be amended as follows:

1. Title, line 8.
Strike: "AND AIRCRAFT"
2. Page 6, line 15.
Strike: "WHOSE PRINCIPAL BUSINESS IS aviation"
3. Page 6, lines 20 and 21.
Following: "(e)"
Strike: remainder of lines 6 and 7 in their entirety.
Insert: "one representative of the Montana airport management association;"

XXXXX
DO PASS

CONTINUED...

STATE ADMINISTRATION
HOUSE BILL 776
Page 2

MARCH 14 83

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4. Page 14, line 15.
Strike: "AND AIRCRAFT"
5. Page 14, line 16.
Strike: "AND AIRCRAFT"

And, as so amended
BE CONCURRED IN