

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 19, 1985

The meeting of the State Administration Committee was called to order on the above date in Room 317 at 8:00 a.m. by Chairman Sales.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL NO. 774: Rep. Jerry Driscoll, District #92, sponsor, said this revises the method for how the State will determine longevity and annual leave for certain employees. This bill would revert to the way it was done prior to the 1984 Attorney General opinion. He also requested an effective date of August 1, 1984 which would be the date of the Attorney General's opinion.

PROPOSERS: Tom Schneider, Montana Public Employees' Association, explained the bill and the Attorney General's opinion, see attached Exhibits #1 and 2. He said it has always been one year for people to qualify. A part-time employee not only has the benefit prorated but also must work double the time. There would be no additional cost because it had always been done this way until five months ago.

Nadine Jensen, AFSCME, Council #9, also supported the bill.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE BILL NO. 774: Chairman Sales asked what this would do to the computer being the change was made to accomodate the computer in the first place. Mr. Schneider said they had been doing this up until August, 1984 so it shouldn't bother the computer. He also asked for an August 1, 1984 effective date.

There being no further questions, Rep. Driscoll closed his presentation of HB 774.

CONSIDERATION OF HOUSE BILL NO. 754: Rep. Harry Fritz, District #56, sponsor, said this is a cost of living adjustment for police officers who have retired in the last 10 years or since July 1, 1975. They do not presently receive a cost of living adjustment. They receive a fixed sum for their retirement income based on their salary at the end of their last full year of service. Those who retired prior to July 1, 1975 do receive a cost of living adjustment. They receive one-half of their last month's salary. The cost of living adjustment is based on one-half of a new officer's salary so that group has seen their incomes increase gradually. This cost of living adjustment would be added to their benefit until it reached one-half of a newly confirmed officer. They are also increasing their contribution to the system. The rest of the money comes from a fund established

for this purpose and would not come out of the general fund, however, the general fund does dip into this fund at times. Taking more money from the fund would limit what the general fund could take out.

PROPONENTS: Bill Ware, Chief of Police, Helena, Montana Association of Chiefs of Police, introduced several chiefs and retired police officers that had driven many miles in support of HB 754. These officers were present from Kalispell, Bozeman, Helena, Lewistown, Missoula, Great Falls and Billings. He said their profession is a dangerous one having lost three officers in the last three months. They can retire at age 50 if they have worked for 20 years. They do not pay social security and are solely dependent upon their retirement.

Larry Conner, Bozeman, Montana Police Protective Association, read his prepared testimony which is attached as Exhibit #3. He also introduced several members of the Montana Police Protective Association from cities throughout the state.

Nadine Jensen, Executive Director of Council #9 of AFSCME, appeared in support of HB 754.

Jim Cole, Missoula, retired police department in 1975 just after the cut-off date. He receives \$497 per month retiring as a lieutenant. He did receive a 3% raise which amounted to \$8 in the last 10 years. He now receives \$605. Those who retired prior to 1975 are receiving \$747 per month.

Bill Steele, retired from the Great Falls department, and appeared on behalf of the Montana Police Officers' Association. He was in support of the bill and read his prepared testimony which he neglected to leave with the Committee. He introduced members of the Association from various cities in Montana. He also said that in 1974 one officer in Great Falls was receiving \$89.70 and they have no social security benefits. They were in trouble and the Legislature solved their problem and told us to come back at a later date - that time has come and they asked for the support of the Committee.

Rep. O'Connell, Great Falls, spoke as a proponent to the bill. She was in the House of Representatives in 1975 and carried the bill which resolved the problems at that time. She said there is money in the fund, that fund was created in 1910 and had been used for other purposes until 1975. She said that this bill is really just an amendment to that bill of 1975.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 754: Rep. Cody asked how this fund could be used by the general fund if it is supposed to be used for the policemen. Rep. Harbin said if the funds are not earmarked they revert to the general fund. Mr. Steele was asked why they have allowed 10 years to pass before coming in asking for an adjustment. Mr. Steele replied that in 1981 the Association tried to get a cost of living adjustment but it was not well enough organized to get it through. That would have been an impact of 1.2 million on the general fund money. This bill today is a compromise and is something they said they could live with.

Without further comment, Rep. Fritz closed his presentation.

The hearing was closed on HB 754.

CONSIDERATION OF HOUSE BILL NO. 739: Rep. Dennis Iverson, District #12, said this bill came about as a result of the Governor's Ground Water Advisory Council of which Rep. Holliday was the chairman. He said if this bill is passed it would be protection for the consumer, protection from regulations for the water well contractors and would be a chance to protect ground water. Currently, this is a licensing board attached to the Department of Commerce and this bill would move it to the Department of Natural Resources so these contractors could avail themselves of the water offices for enforcement of the rules and regulations. Rep. Iverson then went through the changes in the bill and said this would give them the authority to govern themselves. He did say that some of the drillers do not want it moved to the Department of Natural Resources.

PROPONENTS: Robert Chamberlain, President of the Montana Water Well Drillers' Association, was in favor of the bill with some exceptions. They said they wanted to retain it in the Department of Commerce. They also had some questions regarding the bond. The amount of the bond would eliminate the smaller driller from drilling a water well.

Bob Murphy, Fishtail, Montana, said he had 17 years in the ground water business and over the years has become concerned with the future of the ground water. This is the state's most important natural resource. He said that HB 754 opens the door to some regulation. He said the 1972 Constitution provides that all water belongs to the State for the use of its people.

H.S. "Sonny" Hanson, Montana Technical Council, Design Engineers, suggested an amendment to the bill on page 3, line 1-15, which gives authority for the drilling of water wells. This is presently in the Department of Health and Environmental Sciences and suggested an amendment saying that these rules are to be in conformity with the DHES regulations.

Robert Green, Tongue River, Miles City, was in favor of the bill. He said that regulation is needed as ground water is important to

the whole state and is important to him as an individual. He had no problem with the department setting the regulations. They are the ones that should set the standards and urged the concurrence of the Committee.

Rep. Gay Holliday, District #31, Chairman of the Governor's Ground Water Advisory Council, said it was their recommendation to move this to the Department of Natural Resources after a lot of work and study. She said that those people they worked with were in agreement and asked for the support of the Committee.

OPPONENTS: Wes Lindsey, Chairman of the Water Well Licensing Board, said he was not opposed to the bill in its entirety but said it would eliminate some of the small drillers. The Water Well Licensing Board was not consulted regarding this bill and their Board voted against HB 739. He said they do more to protect the ground water with \$16,000 than any department could with their large budget. He also was in favor of leaving it in the Department of Commerce. He had talked to U.S.F.&G., the bonding manager, and they told him if this bond is raised to \$10,000 it takes \$100,000 of net worth to qualify for \$10,000 bond. They also told him this would eliminate 90% of the small drillers in the state. This bill would encourage more and more well drillers to continue in business without licenses - right now there are maybe 5 or 6 who are not licensed. He said that HB 739 should be tabled as it needs more study and it will cost thousands of dollars to implement it.

There being no further opponents, the hearing was open to questions from the Committee.

DISCUSSION OF HOUSE BILL NO. 739: In answer to Rep. Harbin's questions regarding how much equipment costs to get into the drilling business, Mr. Chamberlain replied that with used equipment you could get in for a minimum of \$20,000. Therefore, Rep. Harbin didn't think the objections to the bond were legitimate.

Rep. Pistoria asked Mr. Lindsey if the Board voted against moving it to the Department of Natural Resources. Mr. Lindsey said they were against the move and against the water well bond of \$10,000. Rep. Smith asked what the vote was on this bill. Mr. Lindsey replied that the vote of the Water Licensing Board was 4-1 with one abstaining because he worked for DNRC and the Water Well Drilling Board voted 22-17 against. Mr. Iverson said he had no objection to the amendment proposed by Mr. Hanson concerning the Department of Health and Environmental Sciences.

In answer to Rep. Holliday's question, Mr. Lindsey said the Water Well Licensing Board is appointed by the Governor and has a diverse membership consisting of engineers, sanitarian, well drillers, etc. She asked Mr. Lindsey if they had requested more money after he said they could not do any more without more money. He replied they have requested more money since 1979.

In closing, Rep. Iverson said he was a licensed well driller, had been for several years and all he had seen of this Board was for them to come out and tell him that he needed to display his license on his truck - he didn't think that was protection of the State's ground water. He said he would have no trouble adjusting the bond and would work on the amount that would be acceptable.

The hearing was closed on HB 739.

CONSIDERATION OF HOUSE BILL NO. 775: Rep. John Harp, District #7, sponsor of the bill, said this was introduced at the request of the State Auditor because in the past they have overpaid some of the counties of forest reserve monies. Some of the counties have used this money and then have to pay it back. Some counties have to wait until the next year to make the payback. This bill is designed to clean up the bookkeeping procedures on these monies if they could make the full payment at one time. It would make the auditor's office run a lot smoother and these counties would know what they are going to receive in forest receipt money.

PROPOSERS: Wayne Phillips, representing Andy Bennett, State Auditor, said that this was requested in 1981 by Lincoln County because the federal government makes these estimates and provides them to the State Auditor. In 1972 they estimated \$8 million - when it came it was \$4.5 million. The Auditor's office wants to receive the money and distribute it out by the end of the calendar year.

There were no further proponents.

There were no opponents.

There being no questions from the Committee, Rep. Harp closed his presentation.

CONSIDERATION OF HOUSE BILL NO. 762: Rep. Tom Jones, District #4, sponsor of the bill, said it came about because of the recent Supreme Court decision in the Willis workers' compensation case in which the attorney's fee alone exceeded the largest workers' compensation settlement in the state. No attorney is worth \$1,000 per hour and the attorney's fee in the Willis case is a good example of this abuse.

PROPOSERS: Keith Olson, Executive Director of the Montana Logging Association, said that the Legislature must decide that workers' compensation exists for the protection of the employees. The current system encourages attorneys appealing the cases to a higher court. He suggested an hourly fee with a cap on the total fee for any one case. They were in support of the intention of the bill.

George Wood, Executive Secretary of the Montana Self Insurers' Association, said they supported HB 762 and more strongly support

HB 778. He suggested an amendment on line 15, page 1 by removing "shall" and inserting "may be required to". With that change he said they would support HB 762.

PROPOSERS: Karl Enqlund, attorney from Missoula and representing the Montana Trial Lawyers' Association, who represent most of the injured people and workers' compensation cases and said the Willis case must be distinguished from other cases in the state. The Willis award was the largest workers' compensation award ever in the state and this came about because of a Supreme Court decision. This is being considered in the Senate Labor Committee and told this Committee that an award of that magnitude will never be able to be made again because of the changes that will be made by this Legislature. He explained the Supreme Court decision concerning the fees set and said that most workers cannot afford an attorney on an hourly basis. This would put a cap on the contingency fee and allow payment on the value of the services rendered up to that cap. This is a very simplistic approach to a very complicated matter. He said that the governor has appointed a committee to study the entire workers' compensation system which is to come back to the 1987 Legislature with recommendations.

OPPOSERS: Don Judge, representing the Montana AFL-CIO, said he was not really an opponent but does not intend for workers' compensation to be an attorney's relief act. He said that Montana seems to have a top end in the contingency fee at 40% of the settlement if it goes to the Supreme Court. They did not think this bill answered the questions posed. He suggested that the Committee direct the problems to the Governor's committee appointed to study workers' compensation.

Ed Cummings, Missoula attorney, said that the only way for the workers' compensation system to work is for the injured worker to have access to legal counsel as the insurance companies do. Out of approximately 10,000 claims Willis has risen to the top because his attorney appealed a \$60,000 settlement to the Supreme Court and was awarded \$350,000 and collected a substantial fee. He said most attorneys take workers' compensation cases every day and don't collect anything on some of them and little on the majority of them. He asked that the Committee not to deny the working man access to reasonable legal counsel.

William Palmer, Department of Labor and Industry, said the bill should be amended to extend the authority to the workers' compensation court to promulgate rules.

John Hoyt, attorney from Great Falls, referring to page 2, lines 4 and 5, asked how you define "value of services rendered"? There are many different kinds of services provided by an attorney. He said that this bill is aimed at the lump sum and said the 20% will not inure to the benefit of anyone. A 25% fee is charged if a settlement is reached, one-third if tried in workers' compensation court and 40% if appealed to the Supreme Court. The escalation clause is an inducement to the insurer to settle the claim.

Chairman Sales told the Committee and those present that he was going to ask Rep. Spaeth to present his bill, HB 778, along with HB 762, as they both covered the same subject, attorneys' fees in workers' compensation cases. Then questions could be asked on both bills at the same time.

CONSIDERATION OF HOUSE BILL NO. 778: Rep. Gary Spaeth, District #84, said the bill is directed at assessing the contingency fee against the employer or insurer. These fees are very necessary in the legal profession but should not be assessed on the injured party.

PROPOSERS: Norm Grosfield, attorney in Helena and former administrator of the workers' compensation division, said 90% of his practice deals with the injured workers. He was opposed to HB 762 and said that HB 778 should be passed. He said that prior to 1973 the claimant had to pay all attorney's fees but this has changed. The Court would decide the fee upon the hours spent. In 1983 the Supreme Court directed that the fee should be based on the contingency fee and not on the hours. The system is good but it has to be cost effective. This would not take away the contingency fee but goes back to the prior system. There can still be a contingency agreement between the worker and the attorney but any payments made by the insurer toward the attorney fee would be deducted from that contingency fee. He suggested an amendment on page 3, line 7 following "compensation", insert "court".

Jim Davis, workers' compensation specialists, commended Mr. Grosfield for his stand on HB 778. He said there is a total of about \$70 million claims in the state of Montana right now and wasn't sure if his company belongs in Montana. He said they are probably the only private carrier soliciting workers' compensation business. He said the Waite and Willis decisions are perhaps telling them they should not be in the state but also said they can't wait for two years for the governor's committee to report to the next Legislature.

OPPOSERS: Karl Englund, Montana Trial Lawyers' Association, said they wanted to make sure that this bill does not affect an agreement between the lawyer and the injured worker. He said this is a fundamental change in the way they do business in workers' compensation law and needs to be looked at more closely.

Ed Cummings, Missoula attorney, said there are two systems for compensating attorneys - hourly and the contingency system. This bill seeks to take the fees out of the contingency fee system and put it into the hourly fee system. The attorney for the insurer is getting paid win or lose. The claimant's attorney may get paid at settlement on appeal. If it is going to be changed, make it the same on both sides.

Don Judge, AFL-CIO, said the bill is changing the method of paying the attorney and he didn't think it was right to have it taken from the claimant's settlement.

DISCUSSION OF HOUSE BILLS NOS. 772 and 778: Rep. Smith asked Mr. Englund to state the contingency rates again for the Committee. Mr. Englund said they are 25% if settled, 30% if the case goes to trial before the workers' compensation court and 40% if the case goes to the Supreme Court. Rep. Smith asked if the attorney's work consists of 2 or 3 letters and the case is settled, do they still collect the 25%. Mr. Englund said that would be so if that is the contingency fee agreed upon.

Rep. Smith asked Mr. Englund if, after the Waite and Willis cases, there was an increase in claims. Mr. Englund said he didn't know but Rep. Smith said there was an increase of 12-27%. Rep. Smith stated that the Willis settlement was \$350,000 and asked Mr. Englund what the attorney received in that settlement. Mr. Englund said he didn't know but that the attorney had said that the contingency fee provided for in that case was 40% of the settlement. In response to a question from Mr. Smith to Mr. Englund, Mr. Englund said he did not think that was a terrible burden to place on the employers of the state.

There being no further questions, Rep. Jones closed without further comment.

Rep. Spaeth, in closing, said the contingency fees are important and wanted to emphasize the good points of the bill. He asked that the system be reverted to what it was prior to the Waite decision about 1 1/2 years ago.

The time being 10:00 a.m. the Committee adjourned to go into floor session. The Committee will meet again at 7:00 P.M. on this day to hear the remaining bill, HB 747, and for executive action on the above bills.


WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/19/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	/		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	/		
Compton, Duane	✓		/
Cody, Dorothy	/		
Fritz, Harry	/		
Garcia, Rodney	✓		
Hayne, Harriet	/		
Harbin, Raymond	/		
HolliDay, Gay	/		
Jenkins, Loren	/		
Kennerly, Roland	/		
Moore, Janet	✓		
Nelson, Richard	/		
Peterson, Mary Lou	/		
Phillips, John	/		
Pistoria, Paul	✓		
Smith, Clyde	/		

MONTANA

PUBLIC

EMPLOYEES

ASSOCIATION

1426 Cedar Street • P.O. Box 5600

Helena, Montana 59604

Telephone (406) 442-4600

February 18, 1985

HOUSE BILL 774

House Bill 774 would put the calculation of qualifying time for benefits back to the way it has been since the inception of longevity vacation in 1971. On July 31, 1984 the Attorney General changed that calculation by his ruling (copy attached).

What that opinion basically says is that a person who works on a permanent part-time basis not only has the benefit pro-rated but also must work for an extended period of time to qualify. Here is a simple chart showing what has happened to permanent half time employees.

ORIGINAL LAW

AFTER AG OPINION

	<u>Full Time Employee</u>	<u>Part-time Emp.</u>	<u>Full Time Emp.</u>	<u>Part-time Emp.</u>
Vac. thru 10 Yrs.	15 days	7½ days	15 days	7½ days*
10 thru 15	18 days	9 days	18 days	7½ days
15 thru 20	21 days	10.5 days	21 days	7½ days**
20 years on	24 days	12 days	24 days	9 days**

* Must now wait 12 months instead of 6 months to qualify

** Increase to 9 days upon completion of 20 year.

*** Would increase to 10.5 after completion of 30 years and to 12 days after completion of 42 years.

LONGEVITY

A permanent half time employee must now work for 10 years instead of 5 to receive half of the longevity or basically \$ 5.00 per month.

This bill should not cost any money because until this Attorney General Opinion which happened during the present fiscal year, these costs were already budgeted for.

I want to thank you very much for your support of HB 774.

Sincerely,

Thomas E. Schneider

Eastern Region

(Mailing Address) 502 Nelson
Billings, Montana 59102

Western Region

(Mailing Address) 1420 Jackson
Missoula, Montana 59801

MPEA

State Adm

COMMITTEE

HB 774

2/19/85

Driscoll

Tom Schneider, Elena

FORM CS-33

Ex #2

Crosby Attorney General Opinion Service
2210 E. 6th Helena, Montana

VOLUME NO. 40

OPINION NO. 61

COUNTY OFFICERS AND EMPLOYEES - Vacation accrual rate
for county employees under section 2-18-612, MCA;

EMPLOYEES, PUBLIC - State and local government
employees' vacation accrual rate;

EMPLOYEES, PUBLIC - State employees' longevity allowance
accrual rate;

HOURS OF WORK - One year of service under sections
2-18-304 and 2-18-612, MCA, equals 2,080 hours;

MONTANA CODE ANNOTATED - Sections 2-18-101(7), 2-18-303,
2-18-304, 2-18-306, 2-18-601(2), 2-18-611, 2-18-612,
2-18-617, 2-18-618;

OPINIONS OF THE ATTORNEY GENERAL - 39 Op. Att'y Gen. No.
78 (1982).

- HELD: 1. Under section 2-18-304, MCA, a state employee
must be in a pay status for 2,080 hours in
order to be credited with a year of service
for longevity accrual purposes.
2. Under section 2-18-612, MCA, a public employee
must be in a pay status for 2,080 hours in
order to be credited with a year of employment
for vacation accrual purposes.

31 July 1984

Morris Brusett, Director
Department of Administration
Sam W. Mitchell Building
Helena MT 59620

Dear Mr. Brusett:

You have requested my opinion concerning the following
questions:

1. Whether a state employee, as defined in
section 2-18-101(7), MCA, must be in a
pay status for 2,080 hours to be credited
with one year of service toward the
longevity period under section 2-18-304,
MCA?

2. whether an employee, as defined in section 2-18-601(2), MCA, must be in a pay status for 2,080 hours to be credited with one year of employment toward the vacation accrual rate under section 2-18-612, MCA?

A longevity allowance is added to the salary of "each employee who has completed 5 years of uninterrupted state service." § 2-18-304, MCA. The term "year" is not defined in this section, nor is it defined in section 2-18-612, MCA, which provides:

Rate earned. Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

Years of employment	Working days credit
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years on	24

[Emphasis added.]

For purposes of administration of the longevity and vacation statutes, you wish to know whether a year of service is equivalent to 2,080 hours.

According to the principles of statutory construction, if the language of a statute is plain, unambiguous and direct, the plain meaning of the words is to be followed. Dunphy v. Anaconda Co., 151 Mont. 76, 438 P.2d 660 (1968). In the construction of a statute, the legislative intent is to be pursued, if possible. § 1-2-102, MCA. Statutes must be read together and harmonized to give effect to the legislative intent. Gaffney v. Industrial Accident Board, 133 Mont. 448, 324 P.2d 1063 (1958).

Within Title 2, chapter 18, MCA, definitions of the word "year" appear in several other sections. In sections 2-18-306, 2-18-611 and 2-18-618, MCA, "year" is defined as 2,080 hours for calculation of hourly wages, vacation credits and sick leave credits. On the other hand, the language of sections 2-18-303 and 2-18-617, MCA, refers specifically to "fiscal year" and "calendar year," respectively. The descriptive terms "fiscal" and "calendar" are omitted from the sections concerning longevity and vacation accrual. If the Legislature had intended calculations to be based upon a fiscal or calendar year, it would have expressly inserted one of these descriptive terms. In construing a statute, it is not my function to insert words which have been omitted.

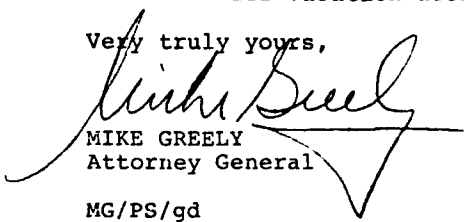
In a previous opinion, I concluded that a normal work year consists of 2,080 hours of labor and that a "year of service" for purposes of deputy sheriffs' longevity therefore consists of 2,080 hours. 39 Op. Att'y Gen. No. 78 at 299 (1982). Similarly, in this situation, the statutes appear to express a general legislative intent that a year of service or employment is equivalent to

2,080 hours. Thus, I conclude that in calculating an employee's past employment for longevity or vacation accrual purposes, the agency or unit of local government should utilize an hourly basis. You have informed me that different practices may have existed in the agencies in the past, and that you intend to adopt new rules to implement a uniform practice. Under the recent decision of the Montana Supreme Court in Wage Appeal of Montana Highway Patrol Officers v. Board of Personnel Appeals, 41 St. Rptr. 154, 676 P.2d 194 (1984), it is permissible to change the method of computing benefits in order to comply with the legislative intent, so long as the change is prospective in application.

THEREFORE, IT IS MY OPINION:

1. Under section 2-18-304, MCA, a state employee must be in a pay status for 2,080 hours in order to be credited with a year of service for longevity accrual purposes.
2. Under section 2-18-612, MCA, a public employee must be in a pay status for 2,080 hours in order to be credited with a year of employment for vacation accrual purposes.

Very truly yours,


MIKE GREELY
Attorney General

MG/PS/gd

Ex. #3
HB 754
2/19/85

February 19, 1985

To: State House Administration Committee
From: Larry Conner / Police Officer - City of Bozeman
MPPA Legislative Representative
Subj: House Bill 754

Mr. Chairman and members of the Committee, my name is Larry Conner. I am a police officer for the City of Bozeman. I speak today on behalf of the Montana Police Protective Association, the organization which represents the 443 (as of 06-30-84) active duty police officers around the State of Montana. We speak today in support of H.B. 754.

As Chief Bill Ware has already explained, many of Montana's police officers retire on a fixed pension with no hope of a cost-of-living increase in their pensions. That creates a problem for officers who retire on a fixed pension amount that is gradually eroded as inflation reduces the value of the pension. I would like to give you a few examples:

<u>Name</u>	<u>Date of Retirement</u>	<u>Fixed Pension</u>	<u>One-Half Newly Confirmed Salary</u>
Sgt. Dar Hanson	10-01-76	\$537.75	^{659.75} \$ 537.75 - Bozeman
Capt. Hal McDowell	02-01-76	\$527.50	^{659.75} \$ 527.50 - Bozeman

Of the two retired officers from Bozeman that I have just mentioned, the average of their fixed pension is \$532.62. One-half of a newly confirmed officer's salary is ^{659.75}\$~~532.62~~. These two officers who retired after the 1975 date are receiving an average of ^{127.13}\$~~532.62~~ less than those officers who retired prior to the July 1, 1975 date.

As the above example shows, retired police officers are placed in position where they retire at a modest pension level with no chance to

have their pension amount rise with inflation. H.B. 754 proposes a cost-of-living increase in an officer's pension.

I call your attention to the above chart which lists the amount of one-half of the monthly salary received by a newly confirmed police officer. H.B. 754 proposes that a retired officer's pension amount be tied to this salary thus allowing the retired officer's pension to increase as the wages paid a newly confirmed officer's increase. It should be noted that H.B. 754 specifies that no officer will receive an increase in pension greater than 5% per year. This limitation means that the officers listed in the above chart would need several years of 5% raises before their pension would reach one-half of the appropriate newly confirmed officer's salary. Once that salary level is reached the officer's pension would rise at a percent rate equal to one-half of the percent raise given to the newly confirmed police officer.

The Department of Administration has prepared an actuarial study of the proposal set out in H.B. 754. That study found that it would cost 9.8% of the salary paid to officers to pay for the cost-of-living pension benefits proposed by H.B. 754. In turn, H.B. 754 provides that 1% of the salary is to be taken from the wages of the police officers and 8.8% is to be paid by the State of Montana from the money collected as a tax on motor vehicle property and casualty insurance policies. Attached to this testimony is a chart showing the amount of money raised by this tax and the amount of money presently paid out as pension benefits from this tax fund. As the chart shows, the insurance premium tax will raise sufficient funds to cover the cost of H.B. 754.

We recognize that the State of Montana is in a situation where it must carefully examine its expenditures. Yet, we believe that our

request for a modest cost-of-living increase is a reasonable request and one that is urgent given the low, fixed pensions that some retired officers receive at this time. We urge this committee to pass H.B. 754. I make this request on behalf of all Montana police officers and particularly on behalf of the officers in this room.

Amount of Money Available from Insurance
Premium Tax Fund

The best source of data available is the budget office. The Office has looked at the insurance premium tax fund and the existing retirement costs coming from the fund and their data is as follows:

	<u>Total Retirement Costs</u> <u>Drawn From Fund</u>	<u>Applicable Insurance</u> <u>Premium Tax Funds</u>	<u>Unused Insurance</u> <u>Premium Tax</u> <u>Reverts To</u> <u>General Fund</u>
1984	\$4,425,000 (Source: Budget Office)	\$6,774,845 (actual)	\$2,349,845
1985	\$4,649,000 Source : Governor's Budget office estimate	\$7,406,938 Source: Governor's Budget office predicts a 9.33% raise in tax receipts	\$2,757,938
1986	\$6,282,000 Governor's Budget Office	\$8,000,234 Budget office predicts an 8.01% increase in tax receipts	\$1,718,233
1987	\$6,676,000 Governor's Budget Office	\$8,646,653 Budget office predicts a 8.08% increase in tax receipts	\$1,970,653

EX-#5

State Workers' Compensation Laws



U.S. Department of Labor
Employment Standards Administration
Office of State Liaison and Legislative Analysis
Division of State Workers' Compensation Programs

July 1984

RECEIVED

JUL 3 1984

DIVISION OF WORKERS'
COMPENSATION

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION^{1/}

State	Attorney fees established by statute, rule, operating policy, or on individual case basis	Determined by:	Statutory provision whereby attorney fees are added to award in certain cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Alaska	25% minimum on first \$1,000; 10% on balance, statute	Agency	Yes	Yes	Yes	No
Alabama	15%, statute	Court	None	None	No	No
Arizona	25%, statute	Agency	None	None	No	No
Arkansas	30% first \$1,000; 20% next \$2,000; 10% on balance, statute	Agency	Yes	None	Yes	No
California	13%, rule	Agency	Yes	None	Yes	Yes
Colorado	Individual case basis	Agency	None	None	No	Yes
Connecticut	Individual case basis	Agency	Yes	None	Yes	No
Delaware	30% or \$2,250, whichever is smaller, statute	Agency	Yes	None	No	No
District of Columbia	Individual case basis					
Florida	25% first \$5,000; 20% second \$5,000; 15% on balance, statute	Agency	Yes	Yes	Yes	Yes
Georgia	25% to 33 1/3%, rule	Agency	Yes	Yes	No	No
Hawaii	Individual case basis	Agency	Yes	Yes	Yes	Yes
Idaho	Individual case basis	Agency	Yes	None	Yes	No
Illinois	20%, statute	Agency	Yes	None	No	No
Indiana	20% first \$5,000; 15% next \$5,000; 10% on balance, rule	Agency	Yes	None	No	No
Iowa	Individual case basis	Agency	None	None	No	Yes

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION (cont.)

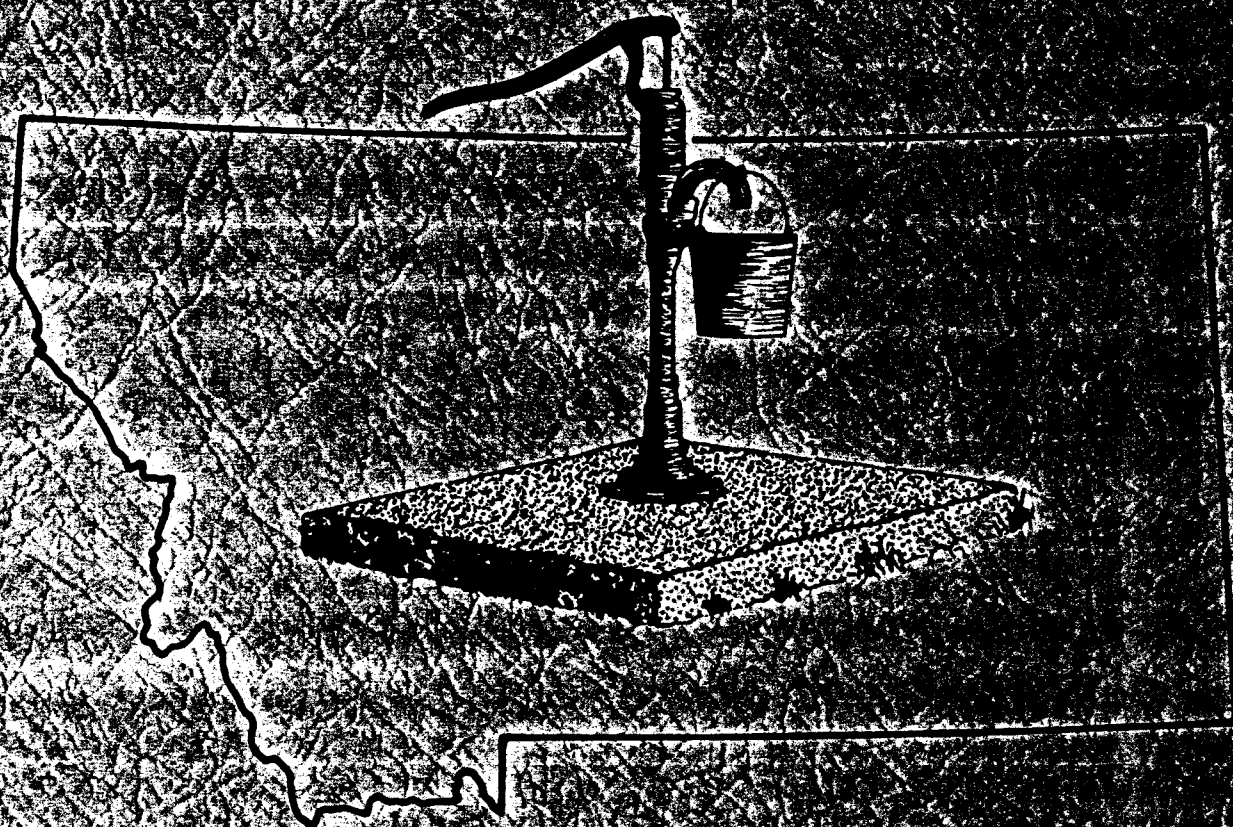
State	Attorney fees established by statute, rule, operating policy, or on individual case basis	Determined by:	Statutory provision whereby attorney fees are added to award in cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Kansas	25%, statute	Agency	None	None	No	Yes
Kentucky	20% first \$25,000; 15% next \$10,000; 5% balance, \$6,500 maximum, statute	Agency	Yes	No	No	No
Louisiana	20% first \$10,000; 10% on balance, statute	Court	Yes	Yes	No	Yes
Maine	Individual case basis	Agency	Yes	Yes	No	No
Maryland	20% first \$7,000; 15% next \$18,000; 10% balance, policy	Agency	Yes	None	No	Yes
Massachusetts	20% on lump sum settlement, individual case basis, statute	Agency	Yes	None	No	Yes
Michigan	30%, rule; up to time of trial; plus 15% on redemption settlements	Agency	None	None	No	No
Minnesota	25% first \$4,000; 20% next \$27,500, statute	Agency	Yes	Yes	No	Yes
Mississippi	25% before Commission; 33 1/3% in Court, statute	Agency	None	Yes	No	Yes
Missouri	25%, policy	Agency	None	None	No	Yes
Montana	25% - 40%, policy	Agency	None	None	Yes	Yes
Nebraska	20% - 25%, policy	Court	Yes	None	No	Yes
Nevada	No provision		Yes	Yes	Yes	
New Hampshire	20% - 25%, policy	Agency	Yes	None	No	No
New Jersey	20%, statute	Agency	Yes	Yes	No	Yes
New Mexico	10%, if no proceedings are filed invoking the jurisdiction of the Court, statute; individual case basis if Court's jurisdiction is invoked	Court	Yes	Yes	No	No
New York	Individual case basis	Agency	None	Yes	Yes	Yes
North Carolina	Individual case basis	Agency	Yes	Yes	No	No
North Dakota	\$50 per hour, maximum, rule	Agency	Yes	None	No	No

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION (cont.)

State	Attorney fees established by statute, rule, operating policy, or on individual case basis	Determined by:	Statutory provision whereby attorney fees are added to award in certain cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Ohio	Individual case basis	Agency	None	None	No	No
Oklahoma	10% TTD; 20% other types, statute	Court	None	None	No	Yes
Oregon	25% not to exceed \$3,000, rule	Agency	Yes	None	Yes	Yes
Pennsylvania	20%, statute	Agency	Yes	None	No	Yes
Puerto Rico	Individual case basis	Agency	Yes	None	Yes	No
Rhode Island	Individual case basis	Agency	Yes	None	No	No
South Carolina	Individual case basis	Agency	Yes	Yes	No	No
South Dakota	Individual case basis	Agency	Yes	None	Yes	No
Tennessee	20%, statute	Court	None	Yes	No	Yes
Texas	25%, statute	Agency	Yes	None	Yes	Yes
Utah	20% first \$15,000; 15% next \$15,000; 10% balance, maximum \$9,051, rule	Agency	None	None	Yes	No
Vermont	20% maximum \$3,000, policy	Agency	Yes	None	No	Yes
Virginia	Individual case basis	Agency	Yes	None	No	No
Washington	30%, statute	Agency	Yes	Yes	Yes	No
West Virginia	20%, 208 week limit, statute	Agency	None	Yes	No	No
Wisconsin	20% in dispute cases, statute	Agency	None	Yes	Yes	No
Wyoming	Individual case basis	Court	Yes	Yes	Yes	No

1/ This table refers only to attorney fees for claimants. Attorney fees of employers and insurance carriers are not regulated by State statutes or regulations.

ISSUES IN GROUND WATER MANAGEMENT



AN EVALUATION OF MONTANA'S
GROUND WATER POLICIES AND PROGRAMS

The Governor's Ground Water Advisory Committee
January 1985

Ex. # 4
HB-775
2/19/85

HB-775

This bill has been introduced to solve a problem encountered by the State Auditor in the Allocation of Forest Reserve monies to the counties.

Under current procedure, the Federal Government makes an estimated payment of Forest Reserve monies of 75% on October 1 of each year.

This money is then allocated proportionally to the counties by the State Auditor.

By December 31, the federal government send the remainder of the Forest Reserve monies. The State Auditor must then adjust the amounts received by the counties based on the total actual receipts and acreages for each National Forest.

Because of this procedure, many counties are over or under paid in the fall causing budget shortfalls and overages that must be made up on short notice in order for all counties to receive their stipulated appropriations.

Some of the problems encountered:

Overpayments

1982	Mineral County	\$6,000	1983	Lincoln Co.	\$99,000
	Ravalli County	44,000			
	Sanders County	37,000			

This is a relatively simple bill designed to clean up the bookkeeping procedures on Forest Reserve monies and prevent counties from being placed in difficult financial binds that are no fault of their own.

COMMITTEE

DATE _____

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL HB 754

DATE 2/19/85

SPONSOR _____

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. HB-754DATE 2/19/85

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
William J. WARE, ^{Chief} Police	2018 5th Helena	✓	
MARTIN D. STEFANIC	2007 5th Ave. E. Kalispell	✓	
George R. Tate	407 W. Curtiss, Boz.	✓	
Larry Smith	5879 Cottonwood Rd. Boz	✓	
DON HELLMAN	504 SYLVAN DR KALISPELL	✓	
Al Brockway	524 6th Ave Helena	✓	
Thomas W. Hefner	305 VIRGINIA, LEWISTOWN	✓	
Ed Forslund	1414 1st Ave So. Great Falls	✓	
Harold Hansenburg	1417-9 Ave. So. Great Falls	✓	
RICHARD C. THURMAN	214 RIDGEWAY, Helena, MT	✓	
CHARLES L. BICSAK	2904-7th Ave So. GREAT FALLS	✓	
William W. Scott	P.O. Box 583 LEWISTOWN	✓	
Bill Steele	Box 12 Pomeroy MT	✓	
Bill Reed	1518 West Central Missoula	✓	
Paul Willis	Box 4015 - Missoula 59807	✓	
Marion Hamilton	1211 So 5th Missoula 59801	✓	
Nadrian Jensen	P.O. Box 5356 759 C. St. Dr	✓	
James J. Cole	712 N. 1st	✓	
Jack Williams	Helena HB 754	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

DATE 2-19-85

SPONSOR

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

CS-33

VISITORS' REGISTER

COMMITTEEBILL NO. 734

DATE _____

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Richard Brasch	Dept of Natural Resources		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO. HB-739

DATE _____

SPONSOR _____

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Ted Beves BILL No. 739
ADDRESS Billing Mt. DATE 2-19-85
WHOM DO YOU REPRESENT SELF WATER WELL DRILLER
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

ALSO BOARD MEMBER

NAME Wesley Sunday BILL No. ^{HB} 739
ADDRESS Clancy Hunt DATE 2/19/85
WHOM DO YOU REPRESENT Water Well Board
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME LARRY CONNER BILL No. HB 754
ADDRESS Police Dept. Bozeman DATE 2-19-85
WHOM DO YOU REPRESENT MT. Police Assn.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Testimony typed and given to chairman

NAME ROBERT CHAMBERLIN BILL No. 739
ADDRESS PO BOX 3810, BUTTE DATE 2-19-85
WHOM DO YOU REPRESENT MONTANA WATER WELL DRILLERS ASS.
SUPPORT X OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME D. R. Davis BILL No. H.B. 739
ADDRESS P.O. Box 2298 Billings MT DATE 2-19-85
WHOM DO YOU REPRESENT MT. WATER WELL Drillers ASSOC.
SUPPORT X OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Kevin Haggerty BILL No. 739
ADDRESS ~~PO Box~~ 2840 TEXAS WAS DATE 2-19-85
WHOM DO YOU REPRESENT MONTANA WATER WELL DRILLERS ASS
SUPPORT X OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: