

**MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES**

March 26, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on March 26, 1987 in Room 437 of the State Capitol at 9:00 a.m.

ROLL CALL: Rep. Moore was excused. All other committee members were present.

CONSIDERATION OF SENATE BILL NO. 365: The bill was reported out of committee on March 17, 1987 with a BE CONCURRED IN motion, and was re-referred from the House Floor.

Sen. Mazurek, Senate District # 23 and sponsor of the bill, stated that the bill, requested by the State Bar and Montana Supreme Court is primarily an incentive bill designed to encourage judges to stay on the bench. Sen. Mazurek gave a brief overview of his previous testimony.

DISCUSSION OF SENATE BILL NO. 365: Chairman Sales asked why judges should be treated differently than other state employees. Sen. Mazurek replied that the bill is an incentive to keep judges on the bench, as justices are the lowest paid in the nation.

Chairman Sales asked why the judges were put on a separate system 20 years ago. Tom Schneider, Montana Public Employees' Association (MPEA) replied that the original bill provided for 50% of salary after 15 years of service, and 1% of salary per year after 15 years, with a maximum benefit of 60% of salary. Since that time the highway patrol, Teachers' Retirement System (TRS), and Public Employees' Retirement System (PERS) have all changed dramatically. The intent of the original legislation was that the system would never be actuarially sound because the government is perpetual. Retirement systems are looked at very differently today, and 49 years of unfunded liability is not in the best interest of the state. The private sector cannot operate on unfunded liabilities, but a 40-year limit has been determined by actuaries for state government.

Rep. Bardanouve stated he is opposed to the bill, and has fought to make retirement systems sound for many years. No one believed his point of view until a retirement system actually went broke. He urged the judges to sit down and face the reality that their

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system is not sound; the issue has to be considered from an actuarially sound point of view and consider what the obligation will be down the road.

Chairman Sales stated that if one group receives special benefits, pressure will be brought from other groups to receive the same benefits. Rep. Bardanouve stated he has always advocated a unified retirement system for all state employees.

Rep. O'Connell stated she sponsored a bill years ago that started the police and fire fighters retirements because since 1910 insurance companies had earmarked funds to contribute to their retirement, but the funds were never used for that purpose.

Sen. Mazurek stated he received a December 31, 1986 statement from Linda King that the judges retirement system would be actuarially sound under the bill, and received a letter from Larry Nachtshiem, Public Employees' Retirement Division (PERD), stating the same, so he introduced the bill providing for the increased benefits to be paid by increased fees. Rep. Bardanouve stated that increased fees may hamper the ability of the people to use the court system and deny justice.

Rep. Jenkins asked what constitutes an actuarially sound retirement system under ARSA. Lois Menzies replied that the public sector cannot have unfunded liabilities, but a governmental agency is determined to be run perpetually so that restriction does not apply.

Rep. Cody asked what the employee contribution rate is with ARSA. Lois Menzies replied that employee's don't participate, the employer pays the benefit. Rep. O'Connell concurred stating the benefit is considered part of the wages earned.

Pat Driscoll, Department of Justice, stated that the justices could contribute 1% of their salary to fund the benefit. Rep. Jenkins stated this action would make the judges contribution rate approximately 8%, the highest rate of any group. Mr. Driscoll replied that the judges have twice the benefits that other state employees have now also.

Rep. Spaeth stated he carried SB 149, which is funded by employees because they want the benefit and are willing to pay for it. This bill needs to be considered in the light of whether it is providing a benefit to government, and keeping justices on

the bench is a definite benefit. Montana has the lowest paid judges in the nation. Perhaps the Legislature should increase pay for the justices rather than raise court fees for the benefit.

Sen. Mazurek thanked the committee for consideration of the bill and stated that other states do not require employee contribution for retirement benefits for justices.

Rep. Roth asked what benefits are provided in the bill. Jim Oppedahl, Supreme Court, replied that under current law retirement is 50% of salary after 15 years of service, and 65% of salary after 30 years of service. The bill provides for 50% of salary after 15 years of service, 60% of salary after 20 years, 70% of salary after 25 years, and 80% of salary after 30 years.

Rep. Pistoria suggested passing the bill and introducing a study resolution to make recommendations for the next Legislature. Chairman Sales replied that once a benefit is granted it cannot be taken away. Lois Menzies stated the committee may wish to pass the bill but delay implementation until recommendation has been made to the next legislative session.

Rep. Phillips asked what is the average age of a judge. Jim Oppedahl replied that previously judges were 55 years of age before being appointed to the bench, but recently the average age is less. Rep. Phillips stated that with 25 years of service a justice would be 70 years old, and it might be time for him to retire anyway.

DISPOSITION OF SENATE BILL NO. 365: Rep. Pistoria moved the bill **BE CONCURRED IN**, seconded by Rep. O'Connell.

Rep. Whalen asked if an age can be stipulated for retirement. Lois Menzies stated that the mandatory retirement age has been taken off, and retirement benefits are vested after a five-year period of service.

Rep. Roth stated that in order to receive 80% of salary, a judge would have to work 40 years. Chairman Sales stated that by offering a larger percent of salary for retirement benefits, judges will be encouraged to retire rather than stay on the bench. Jim Oppedahl said that as a condition of retirement, judges may be called to sit on a case and the cost to the court is the difference between the judges retirement benefit and his salary.


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The motion failed (12-5) with Reps. Sales, Phillips, Campbell, Cody, Compton, DeMars, Fritz, Hayne, Jenkins, Nelson, Peterson, and Roth voting no.

Rep. Jenkins moved that the committee initiate a STUDY RESOLUTION to study state pension plans during the interim. Rep. Jenkins suggested narrowing the study. Chairman Sales suggested that the study include all public employees except the teachers. Committee consensus was to introduce a study resolution.

Chairman Sales appointed a study committee consisting of Reps. Jenkins (Chair), Roth, and Whalen, to consider the possibility of submitting an appropriate committee resolution.

ADJOURNMENT: There being no further business to come before the committee, the hearing adjourned at 10:30 a.m.



Walter R. Sales, Chairman

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DAILY ROLL CALL

State Administration

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-26-87

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales	✓		
John Phillips	✓		
Bud Campbell	✓		
Dorothy Cody	✓		
Duane Compton	✓		
Gene DeMars	✓		
Harry Fritz	✓		
Harriet Hayne	✓		
Gay Holliday	✓		
Loren Jenkins	✓		
Janet Moore		✓	
Richard Nelson	✓		
Helen O'Connell	✓		
Mary Lou Peterson	✓		
Paul Pistoria	✓		
Rande Roth	✓		
Tonia Stratford	✓		
Timothy Whalen	✓		

STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on STATE ADMINISTRATION

report SB 365 AS AMENDED

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

Walter R. Sales

Chairman

Increase salary percentage use to calculate judges' pensions after 15 years.

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