

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

January 26, 1987

The twelfth meeting of the State Administration Committee was called to order by Chairman Jack Haffey on January 26, 1987 at 10:00 a.m. in Room 331 of the State Capitol.

ROLL CALL: All committee members were present.

The hearing was opened on Senate Bill 165.

CONSIDERATION OF SENATE BILL 165: Senator George McCallum, Senate District 26, Plains, is the sponsor of SB 165 which is an act entitled, "AN ACT TO ALLOW THE BOARD OF LAND COMMISSIONERS TO REVIEW INTEREST RATES FOR FUTURE CONTRACTS FOR SALE OF STATE LANDS MORE OFTEN THAN ONCE A YEAR; AMENDING SECTION 77-2-329, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." It would just change a procedure the Department now has whereby they only meet once a year to determine interest rates. This would just allow them the option to meet more often should rates change so that subsequent contracts might be negotiated at higher or lower rates in case interest rates had changed throughout the year.

PROPOSERS: Dennis Hemmer, of the Department of State Lands, felt the option of being able to review rates more often would make the Department more flexible and help make them more competitive in the open market also.

OPPOSERS: There were none.

QUESTIONS ON SENATE BILL 165: Senator Farrell asked if this would mean the department could come in and review rates at any time they desired, perhaps even changing a current loan. Dennis Hemmer stated that a contract is drawn up with a current rate and this is then fixed for that contract but problems have arisen when interest rates have changed throughout a year and this would enable them to adjust subsequent rates on future sales at a more current rate. Senator Farrell was concerned it would be possible for a loan rate to drop and the Department would be forced to go in and reduce the rate to the current one on a contract. Mr. Hemmer stated it would depend on the type of contract which had been negotiated whether it was a fixed or a variable type of rate. The intent is just to allow the department throughout the year to adjust subsequent contracts according to more current rates.

Senator McCallum CLOSED on SB 165.

EXECUTIVE ACTION ON SENATE BILL 165: Senator Rasmussen made a MOTION that SENATE BILL 165 DO PASS. Senator Abrams seconded the motion. The motion passed with Senator Farrell voting no.

The hearing was opened on Senate Bill 167.

CONSIDERATION OF SENATE BILL 167: Senator Dorothy Eck, Senate District 40, Bozeman, is the sponsor of this bill entitled, "AN ACT REQUIRING PUBLIC NOTICE OF STANDING AND CONFERENCE COMMITTEE MEETING OF THE MONTANA LEGISLATURE." She had requested drafting this bill after the last special session to establish some set period of notice of meetings which we do not currently have in statute. There is an understanding of a 48 hour notice but nothing in law. This would just provide legally a 48 hour notice in the first house and 24 hour notice in the second house. She noted there are problems sometimes with conference committees and getting notice to the public and she felt this would provide an orderly procedure of allowing half the time left in a session to give notice. It would benefit both the public and the legislators she noted.

PROPOSERS: Kim Wilson, representing Common Cause, supported SB 167 because it would keep openness in government and felt it was important these provisions be spelled out in statute. George Ochenski, representing the Montana Environmental Information Center, supported the bill. He felt it was important for the public's interests to have more notice and be able to participate. A letter in support was also submitted by Joy Bruck, of the Montana League of Women Voters. (EXHIBIT 1)

OPPOSERS: There were none.

QUESTIONS ON SENATE BILL 167: Senator Lynch wondered if even at the last minute a conference committee would have to give public notice. Senator Eck responded she felt there would not be that many last minute conferences if such a provision was in place. Senator Lynch was concerned it would lead to the opinion that there was not enough time so more bills would die. Senator Eck stated with time constraints, things manage to get done. Senator Haffey wondered if language in section four dealing with a specific time frame should be worded reasonable instead. He felt by defining it it might lead to more difficulties. Senator Lynch wondered what would happen when the House and Senate adjourn at different times. Senator Eck was agreeable that reasonable would be perhaps more appropriate language in section four. Senator Anderson felt this had already been addressed in the language.

Senator Eck CLOSED on SB 167.

The hearing was opened on Senate Bill 168.

CONSIDERATION OF SENATE BILL 168: Senator Dorothy Eck, Senate District 40, Bozeman, is the sponsor of this bill entitled, "AN ACT TO REQUIRE THAT BILLS AND RESOLUTIONS ON SUBJECTS SPECIFIED IN THE CALL FOR A SPECIAL SESSION BE MADE AVAILABLE TO THE LEGISLATURE AND THE PUBLIC AT LEAST 7 DAYS BEFORE THE SPECIAL SESSION." This would provide that when the governor or the legislature calls for a special session that bills that will be considered be available for review 7 days prior to session. She felt it would encourage a more orderly method of dealing with special sessions and give legislators more opportunity to check with their constituents beforehand and that is the reason she had this bill proposed.

PROPONENTS: Kim Wilson, representing Common Cause, supported SB 168 because it would put into statute provisions regarding reasonable notice to the public. George Ochenski, representing the Montana Environmental Information Center, felt the public needs to be a part of the political process and has the right to know exact verbage beforehand.

OPPONENTS: There were none.

QUESTIONS ON SENATE BILL 168: Senator Lynch felt there were some technical problems with this proposed measure. He asked if this was a mandate that all bills be made public prior to a session beginning. Senator Eck felt if a deadline was not met that signatures could still be obtained and bills brought in under other procedures after a session is called. She felt it would be very beneficial to all concerned if more notice was given. Senator Haffey noted for clarification the intent was that a bill be printed and accepted 7 days prior to a special session.

Senator Eck then CLOSED on SB 168. She felt it was a problem which concerns the public and would result in a more orderly process for both the executive and the legislature.

The hearing was opened on Senate Bill 191.

CONSIDERATION OF SENATE BILL 191: Senator Paul Boylan, Senate District 39, Bozeman, is the sponsor of this legislation entitled "AN ACT EXCLUDING CERTAIN PUBLIC EMPLOYEES WHO ARE RECEIVING RETIREMENT ALLOWANCES FROM OTHER PUBLIC RETIREMENT PLANS FROM MEMBERSHIP IN THE PUBLIC EMPLOYEES', TEACHERS', JUDGES', HIGHWAY PATROLMEN'S, SHERIFFS', GAME WARDENS', MUNICIPAL POLICE OFFICERS', LOCAL POLICE, LOCAL FIREFIGHTERS', AND FIREFIGHTERS' UNIFIED RETIREMENT SYSTEMS; AMENDING several sections AND PROVIDING AN EFFECTIVE DATE." He noted he had presented this bill several years ago which created national attention regarding double dipping. He was trying to address a problem where you have people who are retired from one entity from participating in

another retirement system of another tax paying entity. He felt it might help keep some jobs open to our younger people. He stated it would not keep people from taking these jobs but would exclude them from participating in a second retirement plan. He felt it would save the state a great deal of money and increase employment. He submitted a small amendment with some correctional language. (EXHIBIT 2)

PROPONENTS: There were none.

OPPONENTS: Linda King, of the Public Employees' Retirement Division, stated they are in opposition to SB 191 because of the legal questions regarding equal protection, because of the administrative problems with the bill and because it will increase the expenses of the systems at a time when funding is a serious concern to the state. She submitted written testimony of her concerns. (EXHIBIT 3)

Tom Schneider, Executive Director of the Montana Public Employees' Association, opposed the measure. He could understand what Senator Boylan was trying to deal with but felt this measure was not the answer. He noted examples of employees who are forced to change positions at early ages such as in hazardous duty assignments such as highway patrolmen, game wardens, police officers, etc. He noted the bill would not prevent people from accepting employment after another retirement but just prevent them from participating in another retirement plan. He felt it would not address the concerns and in the end cost a great deal to administer and the courts would probably throw it out anyway. David Senn, Administrator of the Teachers' Retirement Board, opposed the bill because of the administration costs.

QUESTIONS ON SENATE BILL 191: Senator Hofman wondered if there was a large amount of abuse of this nature. Tom Schneider stated it was mainly people out of special systems that are involved. Senator Haffey asked Linda King about the legality concern and how PERS responded and she stated their attorneys had stated they could see substantial potential for challenges. Senator Haffey asked Tom Schneider if he felt this would prevent double dipping. Tom Schneider responded it would not prevent people from taking a second job and would not necessarily give younger people opportunities for these jobs. Senator Hofman asked about the \$40,000 per year it would cost to administer this proposal. Linda King responded it would be for one FTE and the computer costs. Senator Hofman wondered if Senator Boylan had checked into the costs this measure would incur and he had not.

Senator Boylan CLOSED by stating it would not restrict people

Senate State Administration
January 26, 1987
Page Five

from taking other jobs but just restrict them from participating in other retirement plans. He felt it was an injustice to our younger people taking jobs away from them the way it stands now. The hearing was closed on SB 191.

EXECUTIVE SESSION ON SENATE BILLS 167 and 168: Senator Haffey asked researcher Eddy McClure to check on possible amendments to both bills before more action was taken. Senator Lynch noted his concerns about making SB 168 work effectively. He then MOVED that SB 168 DO NOT PASS. Senator Anderson noted when a special session is called it usually deals with a specific area and Senator Lynch responded it can be restricted but the area is still pretty broad when you deal with an area such as revenue for example. Senator Lynch then WITHDREW his motion. Senator Farrell wondered how this would apply to a committee bill during the last of a session.

EXECUTIVE ACTION ON SENATE BILL 191: Senator Lynch MOVED that SENATE BILL 191 DO NOT PASS. He could understand what Senator Boylan was concerned about but felt the bill as it reads now would not be workable. Senator Rasmussen seconded the motion. The motion passed with Senators Hofman and Hirsch voting no.

The meeting was adjourned at 11:30 a.m.

cd



SENATOR JACK HAFFEY, Chairman

ROLL CALL

SENATE STATE ADMINISTRATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/26/87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR JACK HAFFEY	X		
SENATOR WILLIAM FARRELL	X		
SENATOR LES HIRSCH	X		
SENATOR JOHN ANDERSON	X		
SENATOR J. D. LYNCH	X		
SENATOR ETHEL HARDING	X		
SENATOR ELEANOR VAUGHN	X		
SENATOR SAM HOFMAN	X		
SENATOR HUBERT ABRAMS	X		
SENATOR TOM RASMUSSEN	X		

Each day attach to minutes.

DATE JANUARY 26, 1987

COMMITTEE ON SENATE STATE ADMINISTRATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Linda Kura	Public Employees' Retirement Commission	SB 191		<input checked="" type="checkbox"/>
Lana Himmels	League of Women Voters	SB 167		
David Sam	Teachers Retirement	SB 191		
George Czeranski	MT. ENV. INF. CENTER	167/168	<input checked="" type="checkbox"/>	
Kate Hill	Comm. Comm.	167/168	<input checked="" type="checkbox"/>	
James Schmidt	MPEFA	SB 191		<input checked="" type="checkbox"/>

SENATE OF MONTANA

SENATE NO. 1

DATE 1-26-87

BILL NO. SB167

January 26, 1987

Senate State Administration Committee
Senator Jack Haffey, Chairman
Room 331
State Capitol Building

The League of Women Voters of Montana would like to go on record in support of SB 167.

Adequate public notice is essential to ensuring public participation at governmental proceedings. Most of the time, in our opinion, this is handled very well, but as the 45th day and the 90th day approach, it does become a problem. The League has, on occasion, spoken to the leadership and to committee chairpersons about this situation but nothing has been done, until now, to ensure that it doesn't happen.

Conference Committee meetings are especially difficult for citizens to attend. Many times they are held whenever there is a small block of time available in which all the members of the committee can get together. This is understandable, but not acceptable from the public point of view. The public has very little way of knowing when these blocks of time will occur, and therefore finds it difficult to attend. Many important decisions and compromises are made at the conference committee level, and we think that the public has the right to be there if they choose. SB 167 will ensure this happening.

Montana is unique in its consideration of public opinion and public participation, and SB 167 can only enhance this consideration. We urge your support of SB 167.

Thank you.

Joy Bruck
Montana League of Women Voters

STATE STATE ADMIN.

FORM NO. 2
DATE 1-26-87
BILL NO. SB191

Proposed Amendment to SB 191

1. Page 4, lines 18 through 19
Following: "persons"
Strike: "hired on or before [the effective date
of this act]"

2. Page 5, line 19
Following: "persons"
Insert: "hired on or before July 1, 1987,"

TESTIMONY ON SB191

Presented by: ALLO SB191
Linda King
Assistant Administrator
Public Employees Retirement Division

On behalf of the Public Employees' Retirement Board, I am appearing today in opposition to SB191 because it raises serious legal questions about equal protection for public employees, because it will cause administrative problems to the state's retirement systems, and because it will increase the expenses of the systems at a time when funding is a serious concern to this state.

Equal Protection

The first problem with this bill is that it would pose serious legal questions about whether it would deny Montana's public employees equal protection under the law. The Public Employees' Retirement Board's legal counsel has informed us that if this bill were to pass, they could only assume its legality would be challenged by a court suit. But, going beyond what lawyers tell us, what does the concept equal protection really mean to us?

First, retirement systems are a means whereby our employees may put part of their salaries aside, tax-free, for their retirement years. Second, retirement systems have been developed by employers as a part of the overall package of employee benefits along with sick leave, vacation, health and life insurance, workers' compensation, social security, and unemployment insurance. Third, the disability and death benefits provided by Montana's retirement systems are strong incentives, especially to those in hazardous professions, to enter public service in Montana. Finally, retirement benefits have even been negotiated as part of collective bargaining agreements. It was only last legislative session that the employer pick-up provisions of many of Montana's retirement systems were originally amended into the retirement system statutes as part of the overall pay and benefit package for Montana public employees.

To deny a Montana public employee membership in a retirement system which covers all other public employees in his or her class of employment is to deny those persons equal protection under the law.

While state law does exclude some persons from membership in its retirement systems, the only persons so excluded who can not freely elect retirement coverage are those whose employment is currently covered by a separate retirement system or those whose service is on a contractual basis as opposed to an employee/employer basis. Even work performed under a contract with a PERS employer can be covered for retirement purposes if both parties agree. To exclude a person from coverage just because that person is drawing a different public retirement benefit based on previous service in another public retirement system is to deny that person the right to state and local government benefits guaranteed to all public employees and, more specifically, to all other employees doing the same public work as the ostracised public employee. We submit to you that this is not the intent of public retirement systems in Montana and this is not the intent of Montana and federal laws.

Administrative Problems

Earlier, I mentioned that this bill would cause administrative problems to the retirement systems. As you may have already deduced, we could write computer programs to compare retirees and active members within the state's nine public retirement systems and could effectively discern whether someone receiving a pension from the Montana Teachers Retirement System was actively employed under the Montana Sheriffs' Retirement System. We estimate this would cost us around \$4,000 additional the first year and possibly \$2,400/year in 1989.

But, how can we know if someone drawing retirement benefits from the Colorado Public Employees' Retirement System is working as a public employee in Montana? How can we know if a Civil Service pensioner is working as a fourth grade teacher in Havre? If we had the resources to build such a tracking system, what makes us believe that other states and the federal government would think it worth their time and money to put that information together to share with us? In Montana, we would not necessarily give other states computer tapes of all our public retirees several times a year -- especially with our privacy laws!

The only way we could try to enforce such a requirement would be to have persons certify, on their membership applications, that they are not receiving public pensions. Now, that brings up another problem. If you were given a choice of whether or not to have Social Security withheld from your paycheck, how many of you, or people you know, would actually choose to have that deduction made? Well, for the vast majority of public employees, membership in Montana's public retirement systems is not optional. However, it would become "optional" if all someone had to do was say they were receiving another public pension in order to "elect" not to be a member of Montana's public retirement systems. So, we would have to hire at least one person to investigate the claim of each person making this certification to make sure that person was receiving a public pension. Since we have thousands of members terminating with thousands of new members joining the retirement systems each year, this would not become an easier task as time passes. And, what about the person receiving a public pension who simply says that he is not? We certainly can not investigate everyone. What have we really accomplished?

Expense

The final objection we have is the expense this piece of legislation would create. Anytime expenses are created when not justified can not be supported. However, how can we possibly justify or support increasing the costs to the retirement systems in the neighborhood of \$40,000 during the next biennium when our current budgets are being seriously questioned and cut? I submit to you that this goes against the grain of the apparent intent of the current Legislature.

In addition, it should be pointed out that those persons receiving public pensions from other states and the federal government are paying Montana taxes on those pensions. While a bill has been introduced to exempt from Montana taxes the public pensions paid by other states, there is also legislation which would make Montana's public pensions taxable. While I can not tell you either bill will be accepted by this Legislature, it seems safe to assume that if we deny such persons "covered employment" in Montana, those persons will be paying less income taxes in this state.

In closing, we ask this committee to look at the real issues raised by this bill. Are we currently giving Montana's public employees "something for nothing." If so, perhaps we should rethink our total public retirement system.

Until we reach that point, however, the Public Employees' Retirement Board would oppose any bill such as this which would deny a small percentage of Montana's employees the protection guaranteed their fellow workers. We would object to such a bill which would be impossible to effectively administer. And, we could not support such a bill which would cost so much to our state in its present financial situation.

STANDING COMMITTEE REPORT

JANUARY 26

87

..... 19.....

MR. PRESIDENT

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

having had under consideration..... **SENATE BILL** No. **165**

first reading copy (white)
color

REVIEW OF INTEREST RATE ON CONTRACTS FOR SALE OF STATE LAND

Respectfully report as follows: That..... **SENATE BILL** No. **165**

DO PASS

~~DO NOT PASS~~

.....
SENATOR JACK HAFFEY

Chairman.

STANDING COMMITTEE REPORT

JANUARY 26

87

19.....

MR. PRESIDENT

SENATE STATE ADMINISTRATION

We, your committee on.....

having had under consideration..... **SENATE BILL** **191** No.....

first reading copy (white)
color

EXCLUDE PERSONS RECEIVING PENSIONS FROM MEMBERSHIP IN TITLE 19 PENSION PLANS

SENATE BILL **191**

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

~~XXXXXX~~
DO PASS

~~DO NOT PASS~~

.....
Chairman.