

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, Chairman , on
March 1, 1989, at 1:00 pm in Room 402 of the State
Capitol

ROLL CALL

Members Present: Senators: H. W. Hammond, Dennis Nathe,
Chet Blaylock, Bob Brown, R. J. "Dick" Pinsoneault,
William Farrell, Pat Regan, John Anderson Jr., and
Joe Mazurek

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and
Julie Harmala, Committee Secretary

Announcements/Discussion:

None

DISPOSITION OF HB 213

Recommendation and Vote:

Senator Mazurek moved that HB 213 be tabled.

THE MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HB 159

Discussion:

Senator Hammond stated that HB 159 deals with the transfer
of service between the Teacher's Retirement System and the
Public Employees Retirement System.

The Teachers Retirement Board requested amendments to HB 159. (See Exhibit #1)

Senator Blaylock asked the people from TRS to explain the amendments.

Dave Senn, Executive Secretary of the Teachers Retirement System explained that the amendments were the result of a request the board of TRS heard on February 17, 1989 from a member of the system. This particular member of TRS had 22 years under PERS and is now a member of TRS and has requested that his service be transferred over to TRS. When he made this request TRS informed him that the Teachers Retirement ACT does not recognize PERS services as a creditable service. Mr. Senn said that under TRS a member must have five years of creditable service under TRS. The member's twenty-two years under PERS would not make him eligible for benefits until he completed another five years under TRS.

He went on to say that under HB 159, TRS would change the way dollars would transfer, to make it more equitable and to provide full funding for the transfer in either direction. It seems logical, if the dollars are there and the service is being transferred, to allow this as creditable service or to allow it to count toward vesting under TRS. This is a new section of the bill that is providing for the recognition of PERS service, as creditable service under the TRS transfer system.

Senator Blaylock ask if this plan was "actuarially sound" and fair to both systems.

Mr. Senn replied that "yes" it is.

Senator Regan asked if PERS liked the bill.

Linda King, Executive Secretary for Public Employees Retirement System, replied that HB 159 was fine with PERS. She explained that currently PERS does recognize service that is transferred from TRS to PERS as being creditable service and allows for the use of vesting. This amendment she added would merely reciprocate "the other side of the coin," when transferring from PERS to TRS.

She stated that HB 159 is more of an equitable means of handling the transfers than in the past because in the past systems use to be funded on the same basis and the same benefits were available. But because of changes that have been made to TRS, this system has become more expensive than

PERS, so the transferring of services in the old way left the teachers "on the short end of the stick" and sometimes required PERS to transfer more money than was actually paid in.

Senator Pinsonneault ask that Dave Evensen from the Montana University System, comment on the "actuarially sound" comment that was made. He wondered if Mr. Evensen agreed.

Dave Evensen stated that there were some late concerns raised by the university system. On the proposed amendment (See Exhibit #1) they believe that it is probably a "soft" public policy decision because currently as it exists for the university system, there is a place covered by both Public Employees Retirement System and the Teachers Retirement System. It is common, he said, that people in the PERS get promoted and when they are promoted to the classified ranks of a position within the Board of Regents Contract, by law they must change retirement systems. There are situations where people may have ten or fifteen years of service when they get a promotion and have invested in PERS. Suddenly they have to serve a new vesting period with the same employer and are still a member of the staff. Potentially now they do not have access to the disability provisions and other features that are part of the Teachers Retirement ACT.

He went on to say that with this amendment the University System's basic concern still exists and he said there were still other concerns.

Senator Pinsonneault asked Linda King what would happen if this bill did not pass.

Linda King explained that it is more of a problem to TRS than PERS right now, but what will happen if HB 159 fails is that under the current system, when transferring services TRS does not receive enough money to pay for the service that is being granted in the system. Then unfunded liability of TRS is then increased of TRS which is already significant. This causes further problems for TRS and the problems on the PERS side is that then more money is being transferred out than is being received.

Senator Blaylock ask Mr. Evenson what the other problems were that the University System had with HB 159.

Mr. Evenson explained that the concern was actually that when making promotions the impact of the bill would be to diminish the attractiveness of the University System as an employer. When there is someone in the University System that is being considered internally, and they are promoted,

the changing of retirement systems essentially causes a penalty to join the new system. This then works a barrier that could run into thousands of dollars. It could be, for example, a \$3,000 salary with ten years of service and this would be a \$6,000 payment. This payment could be made up front or there could be a reduced annuity in the end.

Secondly, he went on to explain the concern that there are two retirement system which is not a creation of the employees but is a state policy decision. People working for the state of Montana are facing this problem that being actuarial funded which keeps the retirement system as a large unfunded fast service liability, which to a large extent goes for benefits that have been burned out of people who may currently be retired or who have a long service to the system.

The funding formula which is representing an average is an "aggregate number." Individuals within the system really do not draw out the benefits that they have contributed to. There is a defined benefit plan which is the:

years of service X average salary X 1/60

This is all that the Teachers Retirement Board looks at when they look at retirement. They do not look at how much money is put into the system, this is irrelevant to a person's benefits. Under a system like a defined benefit plan there are going to be some winners and some losers. He said it was easy to describe them. For example, as a winner under a defined benefit plan you can live longer than under an annuity plan because there is a bit that a person is going to live to an age and not beyond. Joining the retirement system after the age of 45 usually shows that a defined benefit plan favors an older person. There can also be a balloon salary at the end, there might be a low salary and a promotion the last couple years and the final average is what determines a salary.

The losers may leave before retirement, giving ten or fifteen years in the system and then leave the state or a person can join the system at a young age and more interest can be paid than benefits drawn.

We are not objecting to paying our fair share to, but it is not fair when there is the obligation to pay 2% of the final average salary times years of service on an individual. This works for an employer because there has to be funding and obligation which they feel should be a state responsibility. He said he thinks this is putting barriers on state employees.

Senator Nathe asked what it would cost if a person is on PERS and transfers to TRS.

Mr. Evensen stated that the calculations were, for example \$20.00 per \$1,000.00 X years of service. For a \$10,000 salary this is \$200 and if there are 10 years of service, the cost is \$2,000.

1/60 X years of service X final average salary, (same formula used for TRS as PERS) there is a 25 year retirement under TRS and Mr. Evensen questioned if this was worth the 2%. He said he did not think it was because the number that comes from the actuarial funding is an average number.

Senator Nathe asked why retirement systems have to be changed.

Mr. Evensen stated that this would not be complicated and this is in his suggested amendments. (See Exhibit #2)

Dave Senn spoke to some the points that Mr. Evenson brought up at the request of Senator Blaylock. (1) Mr. Senn said that Mr. Evenson made the point that TRS would require that a penalty be paid for future retirement benefits. These individuals would be retiring in the future and they are bringing past service credit with them to retire. They are not going to retire in the future just on the years they have under PERS on their formula and they take all the service under PERS and retire on the TRS formula. The basic formula is the same he stated but there is no reduction for 25 years of service. In PERS, for the same break there must be 30 years of service. In 25 years with PERS there is a 48% reduction, 1/2 a percent for each month, in 60 months there is 30 months reduction. Eligibility would only be at 70% of the benefit, this is part of what is being paid for. TRS also has a little better death and disability benefits. (2) Mr. Evensen also made the statement that employees have to choose between two retirement systems, Mr. Senn answered that they have the optional retirement program. They do not have to necessarily choose TRS. (3) Mr. Senn stated that his last point was that when Mr Evensen said "this is an obligation of the state of Montana," the state of Montana Mr. Senn said has provided for its obligation in the form of employee and employer contributions. TRS is funding retirement benefits for career employees under TRS. TRS forms an actuarially evaluation every two years to see if TRS is on track with the funding and if there are problems they are brought to the legislature. This is funding for years of service that we are not aware of when actual evaluations were preformed. There are no assumptions made when transferring services in and reflect this in total cost

to fund the retirement system.

Senator Blaylock ask why the TRS had an unfunded liability and how big it was.

Mr. Senn replied that it is being corrected and being amortized. He said the unfunded liability was in excess of 500 million dollars. The amortization period is 36.47 years and they have been adding benefit enhancements. The legislature has responsively provided funding for it.

Senator Farrell ask Ms. King to respond to the point made about debt service.

Linda King explained that when people move in a position that is covered by TRS as opposed to PERS there is nothing that makes them have to transfer that PERS service into TRS. They can keep their money in PERS and draw benefits from both PERS and TRS. The people that choose to transfer from PERS to TRS, do so because they will receive a large benefit enhancement and it makes no sense either to the system in TRS nor to be other employees that are members of that system that have been paying higher contribution rates throughout their careers to pay more for the same benefits when someone can transfer in right now for free. The issue then is not that someone is being forced to do something and pay something more for it but that people choose to do because it is to their advantage. they should therefore pay the difference in cost.

She pointed out that every other retirement system in the state, whether it is judges or games wardens or police, when people transfer from TRS to police or police to TRS, they have to pay out of their pockets the difference in the total actuarial costs. These are the only two systems right now that do not do this and the reason is that at the time when the original laws were written the costs were the same. Now they are not the same and no one is being forced to make the transfer out if they choose to. It seems, she said, that they should pay the cost just like people on any other retirement system.

Ms. King added that if someone is in TRS and is in a position that becomes covered by PERS, if they could elect to stay in TRS, the employer is paying out more than they would if they had hired someone else to fill that position, so it may in fact end up having people for the wrong reason because the employer does not have enough money budgeted to pay teachers contributions not hiring a person that could elect to stay in TRS. If it was allowed that people in teachers that were in TRS to elect to stay in TRS instead of going into PERS there may be a problem.

Senator Pinsoneault stated that a lot of the problems would be eliminated if there was a standard 30 year retirement.

Mr. Evensen responded that in this situation it is true that if a person is a member of PERS they are not suppose to transfer the credit in time to TRS. "Remember though," he said, "the formula is pegged on the final average salary and say there is ten or fifteen years until retirement, the current salary today is going to eat away on the value of the salary and the benefits are being capped at some low level. This would not make economic sense to do this, it is better to transfer the money into the new retirement system which pegs salary at current levels and then it is updated as a result of inflation or putting into an IRA.

Senator Nathe asked if people when they transfer from PERS to TRS do they have to come up with the whole increased cost of retirement in one lump sum or can put down a certain amount and pay the balance over time.

Mr. Senn replied that the Teachers Retirement Board has a very broad policy in paying contributions that are owed. The only requirement is that they be paid by the time a person retires. If a payment schedule is taken interest is charged at the rate that TRS is currently paying, on a member's account which is 7%.

He went on to say that the amendment to allow an election stating that the Teachers Retirement Board would not have a problem with an election along as it was an affirmative election and they provided a given period of time for instance, 30 days after the appointment to a TRS eligible position.

Senator Pinsoneault stated that giving an election is a nice thing to do, but if it had to be paid up front TRS would have the money. He said no wonder there is such a large unfunded liability.

Senator Farrell stated that the unfunded liability is not abnormal for these systems. It is actuarially sound if it is under 40 years. These transfers, if they are not equalized someone will get hurt. As a member of State Administration Committee, he explained they have been putting systems together as they come through the committee where every one does the same thing. If there was an exception in this bill for one system, there would be a great deal of trouble caused for all the systems that go through the State Administration Committee.

He went on to say that the amendments on this bill are fine as long as payments are equalized when moving from one system into the other. And it has already been established that if it is an elective move, then the employee pays for this move. All the systems are being based on this.

Amendments and Votes:

Senator Blaylock moved the amendments to HB 159. (See Exhibit #1)

Senator Blaylock called for the question.

THE MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote:

Senator Blaylock moved HB 159 as amended.

Senator Farrell commented that with this bill, it is being assured to be actuarially sound when the elections are transferred. This is a good bill. This is in line with what has been trying to be accomplished in the State Administration Committee.

Senator Mazurek said that he had concerns that this bill may keep good people from moving up.

Senator Blaylock commented that it seemed to him that if an employee moves into a TRS position, they start paying in, but they can transfer these other PERS years which is a good deal for credible service and they do get time to pay off what is owed. They receive additional benefits, they are moving up professionally and they can take the PERS service with them. "This should not keep anyone from moving up in the University System."

Senator Regan called for the question.

THE MOTION WAS CARRIED. ALL COMMITTEE MEMBER VOTED IN FAVOR OF HB 159 EXCEPT SENATOR PINSONEAULT, VOTED NO.

Senator Farrell will carry the bill to the floor.

DISPOSITION OF HB 227

Recommendation and Vote:

Senator Mazurek moved that HB 227 be concurred in.

Senator Blaylock called for the question.

THE MOTION, THAT HB 227 BE CONCURRED IN, PASSED UNANIMOUSLY.

Senator Mazurek will carry HB 227 to the floor.

ADJOURNMENT

Adjournment At: 1:50 pm


SENATOR H. W. HAMMOND, Chairman

HH/jh

Senmin.301

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 1, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 159 (third reading copy -- blue), respectfully report that HB 159 be amended and as so amended be concurred in:

Sponsor: Nelson, R. (Farrell)

1. Title, line 8.

Following: ";

Insert: "INCLUDING SERVICE TRANSFERRED FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AS CREDITABLE SERVICE UNDER THE TEACHERS' RETIREMENT SYSTEM;"

Following: "19-3-511"

Insert: ", 19-4-401,"

2. Page 3.

Following: line 20

Insert: "Section 2. Section 19-4-401, MCA, is amended to read:

"19-4-401. Creditable service. (1) The creditable service of a member begins on the date of his employment in a capacity prescribed for his eligibility in 19-4-302 and accumulates to the member's credit on the basis of the retirement board's policy governing creditable service.

(2) The creditable service of a member includes the following:

(a) each year of service for which contributions to the retirement system were deducted from his compensation under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, this chapter, and their subsequent amendments, except that no credit may be awarded for those years of service for which the contributions have been withdrawn and not replaced;

(b) any service awarded by a prior service certificate issued under the provisions of Chapter 87, Laws of 1937, Chapter 215, Laws of 1939, and their subsequent amendments or under the provisions of 19-4-406;

(c) any out-of-state employment service awarded by the retirement board under the provisions of 19-4-402;

(d) any service awarded for employment while on leave under 19-4-403;

(e) any service in the military, red cross, or merchant marine awarded by the retirement board under 19-4-404;

(f) any employment service awarded by the retirement board under the provisions of 19-4-408;

(g) any service transferred after [the effective date of this act] from the public employees' retirement system under 19-4-409;

~~(h)~~ (h) any service awarded by the retirement board for extension service employment under 19-4-410; and

~~(i)~~ (i) any service awarded for absence due to employment-related injury under 19-4-411.

(3) The retirement board's determination of creditable service under this section is final and conclusive for the purposes of the retirement system unless, at any time, the board discovers an error or fraud in the establishment of creditable service, in which case the board shall redetermine the creditable service."

Renumber: subsequent sections

BE CONCURRED IN

Signed: H. W. Hammond
H. W. Hammond, Chairman

Y.C.
3/2/89
W.C.
10.6.11.

SENATE STANDING COMMITTEE REPORT

March 1, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 227 (third reading copy -- blue), respectfully report that HB 227 be concurred in.

Sponsor: Harrington (Mazurek)

BE CONCURRED IN

Signed: *H. W. Hammond*
H. W. Hammond, Chairman

*4/10/89
3/21/89
10:00 am*

Amendments to House Bill No. 159
Third Reading Copy

Requested by Teachers' Retirement Board

Prepared by Lois Menzies
February 21, 1989

1. Title, line 8.

Following: ";"

Insert: "INCLUDING SERVICE TRANSFERRED FROM THE PUBLIC EMPLOYEES'
RETIREMENT SYSTEM AS CREDITABLE SERVICE UNDER THE TEACHERS'
RETIREMENT SYSTEM;"

Following: "19-3-511"

Insert: ", 19-4-401,"

2. Page 3.

Following: line 20

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(c) any out-of-state employment service awarded by the retirement board under the provisions of 19-4-402;

(d) any service awarded for employment while on leave under 19-4-403;

(e) any service in the military, red cross, or merchant marine awarded by the retirement board under 19-4-404;

(f) any employment service awarded by the retirement board under the provisions of 19-4-408;

(g) any service transferred after [the effective date of this act] from the public employees' retirement system under 19-4-409;

~~(g)~~(h) any service awarded by the retirement board for extension service employment under 19-4-410; and

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(3) The retirement board's determination of creditable service under this section is final and conclusive for the

purposes of the retirement system unless, at any time, the board discovers an error or fraud in the establishment of creditable service, in which case the board shall redetermine the creditable service."

Renumber: subsequent sections