

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION  
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on March 3, 1989, at 10:00 a.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Hubert Abrams, Senator John Anderson, Jr., Senator Esther Bengtson, Senator William E. Farrell, Senator Ethel Harding, Senator Sam Hofman, Senator Paul Rapp-Svrcek, Senator Tom Rasmussen, Senator Eleanor Vaughn

Members Excused: None

Members Absent: None

Staff Present: Eddy McClure

HEARING ON HB 533

Presentation and Opening Statement by Sponsor:

Representative Ervin Davis testified that HB533 is an bill entitled an act to allow the public employees' retirement board to convert certain disability retirements to service retirements, amending certain sections, extending the rule-making authority of the board, and providing an immediate effective date. He stated there are some state people here to explain it more thoroughly.

List of Testifying Proponents and What Group they Represent:

Laurie Ekanger, Administrator, State Personnel Division  
Linda King, Assistant Administrator, Public Employees'  
Retirement Division

Testimony:

Ms. Ekanger reported that, when she explained this bill to the House committee, about 2 seconds into it, their eyes sort of glazed over. She indicated it is complicated, and she will try to keep the committee's eyes from glazing over, but noted

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she feels like she needs to go through this, and explain what it does.

Ms. Ekanger stated they are changing the retirement system in order to save money in the state health plan. She reported that, through a series of bills, the Federal Government is shifting primary responsibility for Medicare eligible people to employer group plans, and they have been doing this since 1982, consistently. She indicated that, for those people who they used to pay primary for, and who are, in any way, associated with an employer plan, they are making the employer plan pay first. Ms. Ekanger indicated that, in the last few months, Medicare has come out with a revised definition of what an employee is for coverage under what is their plan, or an employer's plan. She stated their new definition includes anybody who is on a disability retirement, and who has a reinstatement right to their former position. She reported they have received a bill, for 2 years retroactive, to cover the cost for people who fall in that category in their plan.

Ms. Ekanger stated the public employees' retirement system has, for state employees, a reinstatement right for disability retirement. She indicated that, at certain times, the board will approve a disability retirement, which they continually review, in case there is any possibility that the employee can come back to work. She reported that, at a certain point in time, they obtain a medical determination that the employee is permanently disabled, and will never be able to come back to work and, at that point, the PERS board closes the books on that individual. She indicated that, under the current system, the person continues forever on the disability retirement. She noted that, under the new Medicare requirement, they would be primary for people on disability retirement, for the rest of their lives. She indicated the disadvantage to people on a disability retirement is that they, then, have to pay the full rate, noting that, right now, because they are Medicare eligible, they are dealing with a Medicare carve-out rate, which is a lot less, and noted their costs would go up, not just for Medicare, recognizing everybody's costs are going up now, but they would also go up for their plan, as well.

Ms. Ekanger stated that they are proposing, in this legislation, to allow the board, at the point in time when they have been told by medical authorities that the individual is permanently disabled, will never be able to work, and they have closed the book on that case, and will never review it again, that they will convert the retirement from disability to service retirement. She stated that will end the state's responsibility under Medicare for primary, and will only

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involve people who have been determined to be permanently disabled, who could not use the reinstatement right, anyway. She indicated they would lose that reinstatement right, but would also gain the Medicare carve-out rate, if they are continued on their plan. She pointed out that Section 1 of the bill covers the public employees' retirement system, Section 2 does the same thing for highway patrol, and Section 3 does the same thing for game wardens. She stated that their conservative estimate as to how much claims cost they will save over the next biennium is about \$58,000 in FY90, and \$66,500 in FY91.

Ms. Ekanger indicated that the purpose of this bill is to avoid cost-shifting from the federal Medicare program to their group health plan, for people who will never use the reinstatement right, according to their medical determinations. Ms. Ekanger indicated she hopes the committee will pass this bill.

Testimony:

Ms. King's written testimony is attached as Exhibit 2.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Chairman Farrell asked Ms. Ekanger, if a person who is 30 years old received a disability retirement, and was shifted, assuming the Board said they would not review it any more, that the person is permanently, totally disabled, would they receive the same benefit as if they had worked for the system, and how is that disability retirement figure, versus their retirement had they stayed in the system.
- A. Ms. Ekanger indicated she would like Ms. King to answer that question.

Ms. King responded that, in PERS, the disability retirement allowance is either 90% of the regular retirement allowance, without an actuarial reduction because of age, or one-quarter pay, whichever is more. She stated that, for someone that young, it is probably going to be one-quarter pay, because, unless someone has 17 years of service in the system, one-quarter pay is more. She indicated they would be receiving more on a disability

retirement allowance than they would have if they had retired, but added that they could not retire at that young of an age, and this is, in fact, make-up for the fact that they have become disabled.

- Q. Chairman Farrell asked if Ms. King is saying that, with this bill, they would retire him.
- A. Ms. King responded that they would convert it to a regular, without recalculation, so they would receive the same amount.
- Q. Chairman Farrell asked if they would lose their reinstatement, if a miraculous cure comes about at age 45, and they can go back to work.
- A. Ms. King responded yes, that they would lose their automatic reinstatement right, and noted they have never had that happen in the past, although it is a possibility. She stated the board does not take people off unless it is real clear that they will not recover. She indicated the one person she referred to that went back to work, worked for a city where there is not reinstatement rights.
- Q. Chairman Farrell indicated that, under this bill, they would not have the reinstatement right, if that did happen.
- A. Ms. King responded yes, adding that, if they had been transferred to a regular retirement, they would not have it. She noted it does not mean they would not get a job, that it just means they do not have the reinstatement right, once they are taken off of disability retirement.

Closing by Sponsor:

Representative Davis indicated that, if the committee's eyes are still glazed over, they can imagine how glazed his were, when he first heard about this bill, stating it is extremely complicated. He indicated that, in the long run, transferring these people from one to the other will save the state, and help out the disabled person. He noted they had lots of support in the House committee, and also, on the floor, there were no objections, whatsoever. He recommended that the committee do pass.

Chairman Farrell announced the hearing on HB533 as closed.

DISPOSITION OF HB 533

Discussion:

Senator Harding offered a motion that HB533 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB533 be concurred in.

HEARING ON HB 302

Presentation and Opening Statement by Sponsor:

Representative Ed Grady stated he hopes the committee's eyes become clear now, to see what is happening here. He indicated this is a very good bill, and will take care of some real problems out there.

He testified that the wardens' retirement system was enacted by the 1963 Legislature, effective July 1, 1963, to provide a retirement system for this hazardous duty occupation group, adding that this bill will affect 20 retired members, 5 disabled members, and 2 survivors. He stated that, since 1963, the CPI has increased 285% and, during this same period, retired game wardens have been given one 2 1/2% cost of living increase since 1979. He indicated that, as a result of this disparity, the dollar value of the older warden's retirement income has dropped drastically, noting that most of the wardens affected by this bill retired before 1978, and are between 65 and 84 years old. Representative Grady stated this bill will provide a one-time adjustment to this group of wardens, indicating that, in general, it provides 2%, per year, of a current probationary warden's salary for each year of service, up to a maximum of 30 years of service. He indicated that, at the present time, a warden who retired with 25 years and 4 months service in 1966, is now receiving \$329.47 per month, which is less than 1/3 of the amount a warden with the same years of service would receive today.

Representative Grady reported that the provisions of this act will be funded by continuing Section 19-8-504, which provides that fine monies of fish and game violations will be paid into this system to retire the unfunded liability. He indicated that, at the present time, the unfunded liability will be paid in 11.27 years, that the lifetime cost of this act will be

\$581,411, and will require 3 1/2 more years of fine money into this system. He stated that, with the passage of this bill, the total unfunded liability will be paid in 14.7 years. Representative Grady distributed copies of the unfunded liability for the game wardens, and a few others, a copy of which is attached as Exhibit 3.

List of Testifying Proponents and What Group they Represent:

Orville Lewis, representing himself  
Don L. Brown, representing himself  
Don Wright, representing himself

Testimony:

Mr. Lewis testified that he is a retired member of the wardens' retirement system and, because he recently retired, he will not be affected, personally, by this bill. He stated the bill does affect the older wardens who retired before 1978, and it is a much needed raise to off-set the cost of living increase caused by inflation in the most recent years. He urged the committee's approval of this bill.

Testimony:

Mr. Brown testified that he is a retired game warden, and asked the committee's support on the bill. He stated that he thinks one of the questions that will come up on this bill is something relative to the present game wardens trying to build up the fund by making more fines. He indicated those fines go into a fund that the Legislature passed 2 years ago, which is awarded 50% to the counties, and the other 50% to the game wardens retirement fund, retired highway patrolmen fund, the livestock fund, indicating there are probably others that he does not know.

Mr. Brown reported that, in 1972, the Legislature passed a very sweeping bill that raised all the wages, indicating that was very good. He stated that, unfortunately, it caught a lot of wardens that were retiring around that time. He indicated the bill passed in 1972, and was effective in 1973, and reported the director of the fish and game department's salary rose from \$20,000 to over \$30,000 from December 31st to January 1st of 1973. He stated that catches a lot of people that retired in that particular area with a low income, on today's rapidly increasing CPI.

Testimony:

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Mr. Wright stated he is a retired fish and game employee, a game warden. He indicated this bill does not really apply to him, but he wanted to lend his support to this, and point out that the wardens have only had one cost of living raise since 1977. He stated he thinks he got \$15 out of that.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked Mr. Brown if there is any substance to the statement made about the game wardens increasing the fines, or making more fines in order to save for their retirement, to increase their retirement, or is it just a rumor.
- A. Mr. Brown responded that the judge sets the fine, the Justice of the Peace, usually, and the game warden does not set any fines, at all. He stated that, if they worked harder, made more fines, certainly, the wildlife would benefit, as would the counties. He stated that the game wardens could not affect the amount of money in any appreciable amount, noting it does not amount to that much, because 50% goes to the counties, a larger share goes to the highway department, a smaller share to the livestock people, and only a small portion goes to the fish and game retired wardens.
- Q. Chairman Farrell noted the back side of the fiscal note states an amendment would be proposed, and asked Representative Grady knows if that amendment was placed on in the House.
- A. Representative Grady responded it was put on in the House, indicating there should probably be a new fiscal note.
- Q. Chairman Farrell asked if the bill is correct now.
- A. Representative Grady responded yes.

Closing by Sponsor:

Representative Grady indicated he guesses the committee pretty much sees the problem, adding that these people are, pretty

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much, on a poverty salary. He noted that, naturally, some of them do have other types of help, maybe from another source, but indicated a lot of them do not. He stated this is their own money, and all it does is extend the unfunded liability out another 3 1/2 years.

Representative Grady indicated the reason the question came up, noting they wanted to get it cleared up here, that it was the only comment that came up in both the House committee and on the floor, was about them going out and fining people more, adding they wanted to get it clear that the game wardens really aren't. He indicated you do not see a lot of violations, and he thinks it is a lot less than all other segments, noting it may come up on the Senate floor, because it did in the House.

Chairman Farrell announced the hearing on HB302 as closed.

DISPOSITION OF HB 302

Discussion:

Senator Bengtson offered a motion that HB302 be concurred in.

Recommendation and Vote:

Motion passed by the committee that HB302 be concurred in.

OTHER BUSINESS

Discussion:

Chairman Farrell asked the committee to turn to the front of their books, the Governor's appointments, indicating he has divided up the boards as equally as he could, and he would like to assign all of the ones the committee presently has.

Chairman Farrell stated he is asking Senator Rapp-Svrcek to take the State Highway Commission; Senator Bengtson the Board of Investments; Senator Anderson the Board of Livestock, the Board of Natural Resources and Conservation, and the Board of Regents, noting it is 4 names, and the Board of Regents is only a reappointment; Senator Vaughn the Board of Aeronautics; Senator Harding the Hard Rock Mining Impact Board; Senator Hofman, the Board of Milk Control; Senator Abrams the Board



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of Oil and Gas Conservation; and Senator Rasmussen the Board of Pardons. Chairman Farrell stated he will ask the people on the Northwest Power Planning Council to attend the hearing, as well as John Kinna and the other directors.

Senator Rapp-Svrcek asked when the hearing will be, and Chairman Farrell responded it will be March 16th. He reiterated that the Northwest Power Planning Council will be asked to attend, adding that the Board of Public Education will also be asked to attend, as well as the Department of Agriculture director, the Department of Fish, Wildlife and Parks director, K. L. Cool, and the Department of Social and Rehabilitation Services director, Julia Robinson.

Chairman Farrell indicated he will take the Board of Labor Appeals. He asked the committee members to do what they can, so they will be ready with the reports on March 16th. Senator Rapp-Svrcek asked what they are to do with these. Chairman Farrell indicated that they should call and talk with the people, and call other people, noting they should do the best they can. He indicated that, if there is a question raised which is serious enough to bring before the committee, let the committee know, and, if the committee desires, that person will be asked to attend the hearing.

Discussion: HB167

Chairman Farrell reported he talked with the chairman of the Board of Public Health, Howard Toole, regarding HB167. He stated Mr. Toole was not personally aware of the bill, but indicated they occasionally review, or analyze the fee structure on the tests. Mr. Toole indicated he really did not want to oppose the department, but he was not sure, with the federal clean water act, and all the new proposals that they may be asked for rules and regulations, but he would leave it up to the Legislature, and they will do whatever the Legislature asks them to do. Chairman Farrell noted that there are a lot of times when they do analyze the fees when writing rules, and approving rules the board suggests. He indicated Mr. Toole assumed that the Department of Health looked at this bill as a housekeeping measure, indicating there is not much that they do, that they very seldom see the fees and, if there is some new rules and regulations coming out of the federal government, and we think they should retain this for another year or two under the federal clean water act, they are willing to do whatever the Legislature tells them to do. Chairman Farrell again stated that Mr. Toole did not want to come out and say that he was against the bill, but he indicated there are times they do analyze the fees in

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conjunction with rules that are being proposed. He stated again that Mr. Toole indicated they would do whatever the Legislature asks them to do.

Senator Bengtson pointed out that, on page 4, they still have that review power, that it does not say they can not review all the different kinds of fees. Senator Vaughn noted that Dr. Abbott indicated that, the way it is now, it is duplicating procedure. Senator Bengtson stated she thinks they have it, anyway, that they do it, anyway. Chairman Farrell indicated his point, when he asked Dr. Abbott the question, was if it is taken into consideration, when they are proposing rules, how often those tests should be performed. He indicated that, if they have a rule that says a common water system, with 6 houses on one water well, has to be inspected every month, and the fee is \$500 for that test, do they take that into consideration before they adopt that rule. He stated he is not sure, not knowing what the clean water act is going to do, if they want to keep that with the board when they are proposing those rules, and looking at how to satisfy the federal clean water act. Chairman Farrell asked, if they adopted a rule stating every 3 months, and the department said the test cost \$500, and would go to \$750, would they drop that down, and say twice a year is all they have to test.

Senator Bengtson indicated none of us really understand exactly what the Board of Health's role is. Chairman Farrell noted he could not even find a phone number for it. Senator Bengtson indicated she is not sure but what the department does most of this, anyway, and the board oversees, noting she has questions about if it is more than just duplication, or is it just cutting out the board's power to review, that they would be arbitrary in setting the fees, and the board would be taken out of it. She added that, frankly, she thinks that is a lot of fear that probably should be dispelled, and that probably they do it, anyway, and it is probably straightforward.

Senator Rapp-Svrcek indicated his sense is that the way the law is written, there is not a great deal of flexibility in how this works, and that, perhaps, the board and the department would be well-served by building in a little flexibility. He indicated he is wondering if they could strike a compromise by amending the bill, on page 4, line 20, striking everything after "department", so it would read "fees for services rendered by the department;". He indicated this will allow the board to decide whether or not they want to set the fees for analyzing water and, if they are comfortable with the department doing it, they can let the department do it.

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Senator Bengtson asked what happens about conducting inspections. Senator Rapp-Svrcek responded it seems to him that conducting inspections is a service rendered by the department. Ms. McClure indicated it is fees for conducting inspections, not the inspections. Senator Harding asked if Senator Rapp-Svrcek is saying flexibility over everything, and not limiting it to analyzing water or conducting inspections. Chairman Farrell asked if that would be expanding it more than what the bill does, and Senator Rapp-Svrcek indicated he did not know. Senator Rasmussen asked if, by everything, he meant just water. Ms. McClure pointed out the word "shall", in "the board shall adopt rules", and "fees for services", noting that, on page 3, (18) states "adopt rules imposing fees", indicating we might be in a situation where there are 2 people making rules. Chairman Farrell stated he is becoming more like Senator Bengtson, in that he thinks they probably introduced this as a straight-forward measure. He again stated the chairman of the board said he will do whatever the Legislature tells him to do.

Senator Bengtson stated she thinks they are mucking it up worse and worse, and Chairman Farrell indicated he is beginning to come to that conclusion. He added that he did not think Dr. Abbott had a hidden agenda, and Senator Vaughn indicated he was just trying to clarify something that they probably already do. Chairman Farrell indicated that, from talking to Mr. Toole, they propose these rules, run them by the board, and the board says yes or no, and noted most of them are very menial fees, like \$6, \$7, \$10, \$14. He added that there are some that cost as much as \$500. Senator Bengtson pointed out that it says they are not allowed to charge more than the actual cost, and Ms. McClure pointed out that there is a public hearing. Senator Bengtson stated we have a feel for what the Board of Natural Resources does, and she thinks it is more than what the Board of Health does. Chairman Farrell reported that he asked the committee secretary to get a phone number for the Board of Health, and they do not have one.

Senator Hofman indicated that, if anyone is devious, it is the Department of Health, their approach, and the way they try to slide things through. He stated he knows he has more problems, at home, with rules that are made by departments, that they go off half-cocked, and indicated he would like to see these guys monitor this. Senator Bengtson stated they play a real strong role as far as water quality is concerned, and subdivisions, indicating she has never dealt with the budget of the Department of Health, or anything to do with it.

Senator Bengtson offered a motion that HB167 be concurred in.

Motion passed by the committee that HB167 be concurred in.

Senator Rasmussen offered a motion that the committee reconsider their action on HB167. Ms. McClure read the proposed amendment, a copy of which is attached as Exhibit 7. Senator Rasmussen indicated that is exactly what we are after, that the citizen board will be forced to look at these things. There was further discussion regarding the amendment.

Senator Rapp-Svrcek offered a motion to adopt the amendment to HB167.

Senator Harding asked if we are going to put "adopt rules and imposing fees after consultation with the board." Ms. McClure indicated, somewhere in that sentence, make them consult with the board before they adopt those fees.

Senator Rapp-Svrcek offered a motion that HB167 be concurred in as amended.

Recommendation and Vote:

Motion passed by the committee that the amendment to HB167 be adopted.

Motion passed by the committee that HB167 be concurred in as amended.

ADJOURNMENT

Adjournment At: 10:55 a.m.

  
WILLIAM E. FARRELL, Chairman

WEF/mhu  
HB302.033

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: March 3, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

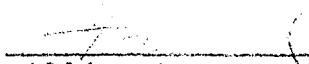
March 3, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 533 (third reading copy -- blue), respectfully report that HB 533 be concurred in.

Sponsor: Davis (Bengtson)

BE CONCURRED IN

Signed:   
William E. Farrell, Chairman

*W. E. Farrell*  
*3/3/89*  
*5:00 p.m.*

SENATE STANDING COMMITTEE REPORT

March 3, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 302 (third reading copy -- blue), respectfully report that HB 302 be concurred in.

Sponsor: Grady (Rasmussen)

BE CONCURRED IN

Signed: William E. Farrell  
William E. Farrell, Chairman

4/13/89  
- 2:45 PM

**SENATE STANDING COMMITTEE REPORT**

March 3, 1989

**MR. PRESIDENT:**

We, your committee on State Administration, having had under consideration HB 167 (third reading copy -- blue), respectfully report that HB 167 be amended and as so amended be concurred in:

Sponsor: Stickney (Bengtson)

1. Page 3, line 21.

Following: "(18)"

Insert: "after consultation with the board,"

**AND AS AMENDED BE CONCURRED IN**

Signed: William E. Farrell  
William E. Farrell, Chairman

*J.C.  
3/31/89  
- 2:15  
- 2:21*



## MONTANA DEPARTMENT OF ADMINISTRATION

HB 533

## TESTIMONY

## TITLE:

"AN ACT TO ALLOW THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO CONVERT CERTAIN DISABILITY RETIREMENTS TO SERVICE RETIREMENTS; AMENDING SECTIONS 19-3-1102, 19-6-612, AND 19-8-712, MCA; EXTENDING THE RULEMAKING AUTHORITY OF THE BOARD; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

## PURPOSE:

This bill allows the Public Employee's Retirement Board to convert certain disability retirements to service retirements, with no additional benefits. Each conversion must be based on a determination by the Board that continued review of the case is no longer needed because the disability involved is of such a permanent and severe nature as to preclude return to active employment.

Medicare recently changed its definition of who is an "active employee." This change in definition will increase costs to the State Employee Group Insurance Plan and the University System Group Insurance Plan because a 1986 federal statute requires that an employer-provided health insurance plan must be primary payer of claims for disability medicare recipients on the plan who are "active employees." This bill will prevent these increased costs by removing some disability retirees (those converted to service retirements) from Medicare's expanded definition of "active employee."

## SECTION BY SECTION DESCRIPTION OF THE BILL

**Section 1.** This section adds a new paragraph 2 to provision 19-3-1102, MCA, of the Public Employees Retirement System Act (Chapter 3, Title 19) allowing the Public Employees' Retirement Board (the Board) to grant service retirement status with no change in monthly allowance to a recipient of disability retirement benefits if the Board determines the recipient's disability status should no longer be subject to review. It requires the Board to notify the recipient of the change in status and gives the recipient 60 days after receipt of the notice to submit a written request for reconsideration.

Section 1 renumbers the remaining paragraphs of 19-3-1102 MCA and amends the renumbered paragraph 3 (current paragraph 2) to clarify that the employment reinstatement rights provided by the paragraph apply to a person whose disability retirement allowance is canceled because the Board has determined the recipient is not incapacitated.

**Section 2.** This section adds a new paragraph 2 to provision 19-6-612, MCA, of the Montana Highway Patrolmen's Retirement System Act (Chapter 6, Title 19) allowing the Public Employees' Retirement Board (the Board) to grant service retirement status with no change in monthly allowance to a recipient of disability retirement benefits if the Board determines the recipient's disability status should no longer be subject to review. It requires the Board to notify the recipient of the change in status, and it gives the recipient 60 days after receipt of the notice to submit a written request for reconsideration. Remaining paragraphs of 19-6-612, MCA, are renumbered.

**Section 3.** This section adds a new paragraph 2 to provision 19-8-712 MCA of the Montana State Game Warden's Retirement System Act (Chapter 8, Title 19) allowing the Public Employees' Retirement Board (the Board) to grant service retirement status with no change in monthly allowance to a recipient of disability retirement benefits if the Board determines the recipient's disability status should no longer be subject to review. It requires the Board to notify the recipient of the change in status, and it gives the recipient 60 days after receipt of the notice to submit a written request for reconsideration. Remaining paragraphs of 19-8-712, MCA, are renumbered.

**Section 4.** This section extends existing rulemaking authority to the new provisions.

**Section 5.** This section provides an immediate effective date.

#### EFFECT OF BILL

This bill will prevent some of the increased costs to the employee health insurance plans of the State and University System created by Medicare's recent expansion of the definition of "active employee" for purposes of shifting costs. It will also preserve the rights of State and University System disability retirees to meaningful continued coverage under their former employer group plan provided by 2-18-704, MCA, -- low cost coverage which acts as a supplement to Medicare rather than full cost coverage which replaces Medicare benefits that disability retirees must none-the-less pay for.

For more information call Laurie Ekanger, or Rod Sundsted, State Personnel Division, 444-3871.

## TESTIMONY ON

HB 533

Linda King, Assistant Administrator  
Public Employees' Retirement Div.

On behalf of the Public Employees' Retirement Board, I am here today to ask your favorable consideration of HB 533, which will allow the Board to convert certain disability retirements to regular retirements in the PERS, Game Wardens and Highway Patrol Retirement Systems.

The retirement division drafted this bill in order to remedy a problem which has arisen because of changes in federal law.

Currently, disability retirees are granted a right to return to work if it is determined they are no longer disabled. Federal rules for Medicare also state that as long as a person has the right to return to work, that person is still technically an "employee" of the employer and the employer's group medical insurance will be the primary payer of all claims. Therefore, the state's group insurance plan will be required to be the primary payer for all persons receiving a disability retirement from the state.

It is a matter of fact that few disability retirees ever return to work. The Public Employees' Retirement Board reviews disability retirees every 6 months to 1 year after the disability retirement begins; however, at some point in time (usually no longer than 3 to 5 years -- oftentimes sooner, depending upon the nature of the disability) the Board is able to determine (based on medical opinions submitted to the Board) that individuals should be taken off "disability review." Once this occurs, the Board has essentially granted the disability retirement "for life;" without a doubt that the person will never recover sufficiently to return to his former employment.

The bill before you today proposes to allow the Board to convert disability retirements to regular retirements (without any change in benefits paid) once they have determined the individual should be taken off disability review. The effect of such a conversion would be a removal of the "return to work" guarantee for disability retirements. Without a return to work guarantee, Medicare would become the primary payer of health insurance benefits, saving the state group health plan an estimated \$58,003/year during FY 90 and increasing another 30% each year, thereafter.

(Please note that the fiscal note printed for this bill is in error, the costs for Current Law and Proposed Law have been **reversed**, resulting in the fiscal note showing a net increase in costs as a result of this bill. The opposite is true; the bill will save the state health plan \$58,003 during FY 90.)

Since only 1 person who had been taken off disability review has ever returned to work (and that person went back to work for a city, where there is no guaranteed right to return), this bill is not expected to limit any employee's actual rights. However, the bill ensures employee's rights by guaranteeing any disability retiree the right to appeal the Board's decision to convert their retirement allowance.

We would appreciate your consideration of a vote to concur in this legislation.

# MONTANA

Helena, Montana 59604

1426 Cedar Street • P.O. Box 5600

Telephone (406) 442-4600  
Toll Free 1-800-221-3468

## PUBLIC

## EMPLOYEES

## ASSOCIATION

SENATE STATE ADMIN.

EXHIBIT NO. 3

DATE 3/3/89

BILL NO. HB 302

January 23, 1989

Representative Ed Grady  
Capitol Station  
Helena, MT 59620

Dear Ed:

Orville Lewis indicated that you needed some information concerning unfunded liabilities of other systems. This should help you for passage of HB 302.

According to actuarial consultants Hendrickson, Miller and Associates, Inc. as of June 30, 1988 the years necessary to amortize the unfunded accrued liability under the entry age normal method is as follows:

Game Wardens	- 11.27 years
P.E.R.S.	- 24.96 years
Municipal Police Officers	- 29.51 years
Highway Patrol	- 36.65 years
Sheriffs	- Fully Amortized
Judges	- 35.01 years
Firefighters	- 34.25 years

If I can be of any other help, let me know.

Thanks,

  
Thomas E. Schneider  
Executive Director

TES/LAR

Eastern Region  
P.O. Box 20404  
Billings, MT 59104  
(406) 256-5915

Western Region  
P.O. Box 4874  
Missoula, MT 59806  
(406) 251-2304



EXHIBIT NO. 4

DATE 3/3/89

BILL NO. HB302

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Orville Lewis

DATE:

3-3-89

Address:

5285 Kew Dr  
Helena, MT

Phone:

458-5637

Representing whom?

Self

Appearing on which proposal?

HB-302

Do you:

SUPPORT?

AMEND?

OPPOSE?

Comments:

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT NO. 5

DATE 3/3/89

BILL NO. HB302

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Don L. Brown

DATE: 3-2-89

Address: 1050 Broadway  
Helena MT

Phone: 443 1906

Representing whom?  
self

Appearing on which proposal?  
HB302

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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EXHIBIT NO. 6

DATE 3/3/89

BILL NO. HB362

WITNESS STATEMENT

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME: Dan Wright

DATE: 3-2-89

Address: 1145 S. Main Rd  
Helena

Phone: 402-4154

Representing whom?  
SELP

Appearing on which proposal?  
HB 362

Do you: SUPPORT?  AMEND?  OPPOSE?

Comments:  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 7

DATE 3/3/89

BILL NO. HB167

Amendments to House Bill No. 167  
Third Reading Copy

For the Senate Committee on State Administration

Prepared by Eddy McClure  
March 3, 1989

1. Page 3, line 21.

Following: "(18)"

Insert: "after consultation with the board,"



