

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairperson Eleanor Vaughn, on February 1, 1991, at 10 A.M. in room 331.

ROLL CALL

Members Present:

Eleanor Vaughn, Chairman (D)
Bob Pipinich, Vice Chairman (D)
John Jr. Anderson (R)
Chet Blaylock (D)
James Burnett (R)
Bill Farrell (R)
Harry Fritz (D)
Bob Hockett (D)
Jack Rea (D)

Members Excused: Senator Bernie Swift

Staff Present: David Niss (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: There are no hearings scheduled in State Administration for Monday, February 4. On February 4 this committee is invited to attend House State Administration to listen to an informational presentation given by the Public Employees Retirement Division.

HEARING ON SENATE BILL 222

Presentation and Opening Statement by Sponsor:

Senator Fred VanValkenburg, Senate District 30, said Senate Bill 222 is an act changing the eligibility requirements for retirement under the municipal police officers' retirement system; providing that members who terminate covered employment after 10 years and who remain members may become eligible to draw a retirement benefit upon reaching the age of 50. The Attorney General in June of 1989 issued an opinion to the City of Miles City saying that a police officer hired after July 1, 1975, who completes 20 years of service before reaching the age of 50 must continue serving as a police officer until he reaches age 50 in order to be eligible for retirement benefits. (Exhibit 1) Many police officers around the state believed that they could retire after 20 years service and receive full retirement benefits at age 50. Their employers believed that was the benefit. They

told the prospects in the hiring process what they believed the retirement conditions to be. After study, the Retirement Division, and the Montana Public Employees Association concluded the age requirement could be fixed at no cost to the Retirement System. They also concluded that they could provide a vesting condition in the Municipal Police Officers' Retirement System for anyone who had completed 10 years of service at no additional cost. He gave the committee an amendment, prepared by the Public Employees Retirement Division, which that division believes is needed to clarify Senate Bill 222. (Exhibit 2)

Proponents' Testimony:

Tom Schneider, Executive Director of the Montana Public Employees Association, read his testimony supporting Senate Bill 222. (Exhibit 3)

Troy McGee, representing the Montana Police Protective Association and the Helena Police Department, supports this bill. He was hired by the Helena Police Department in 1975 and was told then that policemen could retire with full benefits after 20 years service, but not draw until age 50. He explained that police work is easier for young men, and that after 20 years there is increased risk of injury. They support Senate Bill 222.

Marty Ludemann, representing the Missoula Police Association, supports this bill because he believes it should be up to the individual whether or not he retires with a vested retirement system. At the age of 42 he would be eligible to retire. He would have to wait 8 years to draw the retirement. There is a real chance of being injured.

Gary Casey, a police officer for the City of Missoula for 15 years, feels this bill will enable the retirement plan that had been promised by the employers, the city, and the staff, that they could work for 20 years and be totally vested and retire. He pointed out that a person beginning service at age 30 would draw the same benefits as a person beginning at age 24. So the extra years of service wouldn't improve his retirement benefits. He plans to enter another career at age 42 and wait until age 50 to receive his benefits. Missoula has 40 officers that will be dealing with this problem.

Linda King, Assistant Administrator of the Public Employees Retirement Division, supports Senate Bill 222 and said there is no fiscal impact to enact this legislation, since the actuary had figured there will be no increase in contributions needed in the system. (Exhibit 4) She also supports the technical amendments that Senator VanValkenburg presented.

Edward L. Flies, representing the Montana State Council of Professional Firefighters, supports this bill and the amendments.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Hockett asked if you have a vested interest at 10 years instead of 20 years, what would the retirement benefits be after 10 years? Linda King responded it would be 2 and a half percent per year of service so it would be 25% of their of their final compensation.

Senator Fritz asked if most police officers retire after 20 years? Marty Ludemann responded that most police officers do retire after 20 years because those officers who were employed before 1975 are eligible to do that. If the person has achieved a higher rank, where he isn't on the front lines in police work, he may stay working longer. In 1975 when they wrote this legislation, many departments were losing experience. With small departments there was too much turn over. Now the departments have grown and that isn't the case so much. Also, policemen don't pay social security, so they need to get a second retirement.

Senator Blaylock asked Linda King if this is actuarially sound and this can be done with no harm to the system? Linda King said there is absolutely no additional contributions required to make any of these changes. The actuary assumes anyone who makes it to 10 years service is going to retire. He never considers anyone will terminate and give up their benefit. No additional costs at all but will provide some very important basic equity for the members of the system.

Senator Blaylock asked if the Police Retirement Fund at this time have an unfunded liability? Linda King responded it does, as does all retirement systems. It is only \$33.9 million and is making good progress towards being amortized over 29.5 years. A general rule of thumb is that the amortization is no more than 40 years and 30 years is considered a decent period.

Senator Hockett asked how much are you under funded? Linda King responded that is called an unfunded liability. It's like mortgaging your house. When the system was created it was formed from many local plans that were having financial difficulty. The state wide plan provides a better funding source, centralized administration, state's investment board opportunities, etc.

Senator Blaylock asked Senator VanValkenburg if the police officers will be like retired Montana teachers? Will they go to another state and get the same job? Senator VanValkenburg responded that an experienced police officer wouldn't go and get a rookie job. He would go into private security work or something that wouldn't be so physically demanding.

Linda King stated there is quite a distinction between 25 year retirement for teachers, who draw benefits immediately, and police officers who must wait to age 50 to receive benefits. They will not receive a retirement benefit 1 day earlier, they must be 50 years of age. They can change careers, leave their contributions on deposit and begin receiving them at age 50.

Senator Vaughn asked if too many retire will it make any difference on the actuarial sound basis you've presented? Linda King stated the actuary assumes everyone will retire.

Closing by Sponsor:

Senator VanValkenburg closed saying that the actuary was interpreting the system the same way as the police officers were. It is only the Attorney General's opinion that changed their thoughts. This will be fair and equitable to police officers who have served us in that capacity. Please support this bill.

EXECUTIVE ACTION ON SENATE BILL 222

Motion:

Senator Blaylock MOVED to AMEND Senate Bill 222.

Discussion:

Senator Hockett expressed the opinion that this bill probably will have a cost, even though the actuary says it won't.

Amendments, Discussion, and Votes:

The VOTE was UNANIMOUS to AMEND Senate Bill 222.

Recommendation and Vote:

Senator Pipinich MOVED that we DO PASS AS AMENDED Senate Bill 222. The VOTE was UNANIMOUS in favor of passing SB 222.

ADJOURNMENT

Adjournment At: 11:10 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE Feb 1, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		<i>excused</i>
SENATOR CHET BLAYLOCK	X		
SENATOR JAMES BURNETT	X		
SENATOR "BILL" FARRELL	X		
SENATOR HARRY FRITZ	X		
SENATOR BOB HOCKETT	X		
SENATOR JACK "DOC" REA	X		
SENATOR BERNIE SWIFT			<i>excused</i>

Each day attach to minutes.

DATE 2-1-91

VOLUME NO. 43

OPINION NO. 20

SB222

POLICE - Officers' eligibility for retirement benefits before age 50;

RETIREMENT SYSTEMS - Eligibility of municipal police officers for retirement benefits before age 50;

MONTANA CODE ANNOTATED - Sections 19-9-801, 19-9-802;

MONTANA LAWS OF 1989 - Chapter 196, section 15.

HELD: A police officer hired after July 1, 1975, who completes 20 years of service before reaching the age of 50 must continue serving as a police officer until he reaches age 50 in order to be eligible for retirement benefits.

June 5, 1989

Charles W. Jardine
City Attorney
201 South Seventh Street
Miles City MT 59301

Dear Mr. Jardine:

You have requested my opinion on the following question:

May a police officer whose eligibility for service retirement depends on section 19-9-801(2), MCA, retire before reaching age 50 if he has completed 20 or more years of aggregate service and waits until he reaches age 50 to receive his benefits, or must he continue serving as a police officer until he reaches age 50 in order to be eligible for the benefits?

Section 19-9-801, MCA, which was amended by House Bill 89 (1989 Mont. Laws, ch. 196, § 15), effective March 20, 1989, now provides:


Members are eligible for retirement and shall retire as provided in this section:

(1) A member who was employed by an employer as a police officer on July 1, 1975, is eligible to receive a service retirement allowance when he has completed 20 years or more in the aggregate as a probationary officer, a regular officer, or a special officer, in any capacity or rank and has terminated covered employment.

THEREFORE, IT IS MY OPINION:

A police officer hired after July 1, 1975, who completes 20 years of service before reaching the age of 50 must continue serving as a police officer until he reaches age 50 in order to be eligible for retirement benefits.

Sincerely,


MARC RACICOT
Attorney General

MR/KS/bf

SENATE STATE ADMIN.

EXHIBIT NO. 2

DATE 2-1-91

BILL NO. SB 222

PROPOSED AMENDMENTS TO SB 222

January 30, 1991

1. Page 3, line 19.

Strike: or before

2. Page 5, line 24.

Strike: or before

3. Page 7, line 24.

Strike: police officer

Insert: member

4. Page 8, line 9.

Strike: police officer

Insert: member

PUBLIC

EMPLOYEES

ASSOCIATION

SENATE STATE ADMIN.

EXHIBIT NO. 3DATE 2-1-91BILL NO. SB 222

January 29, 1991

TO: Senate State Administration Committee

FROM: Tom Schneider, Executive Director

SUBJECT: SB 222

SB 222 is the result of a problem with the current language of the Municipal Police Retirement System. When the law was changed in 1975 to provide that police officers hired after July 1, 1975 would have to be age 50 to retire, a gray area was created.

The law requires a police officer who completes 20 years of service to keep working until age 50 or forfeit his entire benefit. That was not the original intent but the language of the current law is not clear.

SB 222 is the result of work between MPEA, PERD and the Actuary to correct this problem with no cost to the system. The Actuary recommended that a "vested right" provision be put in the law to allow any officer who completes 10 years of service to leave his account and draw a benefit at age 50.

At the same time he recommended that we change the law on page 5 to include all purchased service as "qualified service". This change is already in HB 274 and was included in this bill at the recommendation of the PERS.

This bill has been determined not to require additional funding by the PERS Actuary.



SB 222

TESTIMONY OF THE

PUBLIC EMPLOYEES' RETIREMENT BOARD

Presented by Linda King, Asst. Administrator
Public Employees' Retirement Division

On behalf of the Public Employees' Retirement Board, I am here today to share with you the Board's endorsement of SB 222 which will allow members of the Municipal Police Officers' Retirement System (MPORS) to become vested in their eligibility for a retirement benefit after having accumulated at least 10 years of service with this retirement system. This bill will also provide that service which has been purchased by members will be used for calculating their retirement eligibility.

Currently, the MPORS is the only system administered by the Board which does not provide vesting for members of the system prior to actual retirement eligibility. In PERS and several other systems, members are vested in 5 years. As is the case in the Firefighters' system, this bill will provide vesting for Police Officers after 10 years service.

Vesting is an important concept in retirement systems. What it means is that after a certain number of years membership, the member can terminate covered employment but elect to leave his or her contributions on deposit with the system and be eligible to receive a retirement allowance when reaching minimum age requirements. In the case of the MPORS, this would be age 50 persons who became members after this new system came into being.

While this is indeed a benefit "enhancement" for those members who terminate active employment as a police officer prior to reaching age 50, it has no actuarial cost to the retirement system and will not require additional employee, employer, or state contributions. The reason for the "no cost" fiscal note is that the system's actuary currently assumes that all members with at least 10 years of service will draw a retirement allowance upon reaching age 50. Since the allowance can not begin prior to age 50, the benefits for vested inactive members will already have been funded prior to their receiving their first monthly benefit.

Similarly, there is no cost for allowing member's who have purchased service -- for example, those who have paid the actuarial cost of transferring service from the Sheriffs' Retirement System into MPORS -- to have this service count toward their retirement eligibility. Since the actuarial cost for these years of service has already been paid into the system, the benefit members receive for this service has been fully funded. There is really no need to require a person who has served 10 years in a county sheriff's department to serve an additional 20 years as a city police officer before he or she can become initially eligible to retire.

The Public Employees' Retirement Board is pleased to strongly endorse SB 222 with the technical amendments offered by the sponsor. This proposal will provide equitable benefits for all members of the MPORS without the need for increased contributions to the system.

51st Legislative Session

STATE ADMINISTRATION COMMITTEE

PROXY VOTE

I, Senator Bernie Swift do hereby
grant my proxy vote to Chairman Vaughn or Secretary Harris as
follows:

BILL NUMBER SR 222

MOTION

Do Pass
Yes ✓ No

Do Not Pass
Yes No

Indefinitely Postponed
Yes No

Tabled
Yes No

Date 1/31/91

Bernie Swift
Signature

Amendments to Senate Bill No. 222
First Reading Copy

For the Committee on State Administration

Prepared by David S. Niss
February 1, 1991

1. Page 3, line 19.
Strike: "or before"

2. Page 5, line 24.
Strike: "or before"

3. Page 7, line 24.
Strike: "police officer"
Insert: "member"

4. Page 8, line 9.
Strike: "police officer"
Insert: "member"

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 1, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 222 (first reading copy -- white), respectfully report that Senate Bill No. 222 be amended and as so amended do pass:

1. Page 3, line 19.

Strike: "or before"

2. Page 5, line 24.

Strike: "or before"

3. Page 7, line 24.

Strike: "police officer"

Insert: "member"

4. Page 8, line 9.

Strike: "police officer"

Insert: "member"

Signed:

Eleanor Vaughn
Eleanor Vaughn, Chairman

JA 2-1-91
Amd. Coord.

SB 2-1-91
Sec. of Senate

231205SC.S11