

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairperson Eleanor Vaughn, on March 8, 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: Senator Fritz said of all the 6 boards
he was assigned, he had an extremely controversial nominee
to the Board of Natural Resources, that will have to be
heard alone.

HEARING ON HOUSE BILL 734

Presentation and Opening Statement by Sponsor:

Representative John Phillips, House District 33, Great Falls, said House Bill 734 gives state employees who are in operation Desert Shield and operation Desert Storm on active military duty supplemental pay status. The idea was to take care of families that might have a hardship with the salary earner overseas. Representative Phillips said there are only 47 state employees who would benefit from this legislation. Since the war is over and they are coming home, he asked the committee to hold this bill.

Proponents' Testimony:

None

Opponents' Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

Chairperson Vaughn declared the hearing closed and the committee would table House Bill 734 until further word from Representative Phillips.

HEARING ON HOUSE BILL 274

Presentation and Opening Statement by Sponsor:

Representative Williams Strizich, House District 41, Great Falls, said House Bill 274 is brought on behalf of the Montana Police Protective Association. It provides that all service time may be purchased by a member of the Municipal Police Officers' Retirement System to be credited toward the eligibility for service retirement.

Proponents' Testimony:

Troy McGee, Captain in the Helena Police Department, represents the Montana Police Protective Association and the Montana Chiefs of Police Association. This bill clears up some misconceptions and confusion in the current retirement law for police officers.

Larry Nachtsheim, Public Employees Retirement Division, said Section 3 of this bill amends the retirement act to permit them to buy their military service to include in their 20 years of service. It has no actuarial cost, as the individual members will pay the premium cost. (Exhibit 2)

Opponents' Testimony:

None

Questions From Committee Members:

Senator Hockett asked if your retirement will be figured on your military time eligibility. How much time can you purchase? Troy McGee responded you can purchase 5 years.

Senator Farrell asked if this is in compliance with all the other retirement systems? Larry Nachtsheim responded this applies only to police officers.

Closing by Sponsor:

Representative Strizich closed by saying there is no cost to the state for this benefit. Senator Rea volunteered to carry House Bill 274 to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 274

Motion:

Senator Pipinich moved that we DO CONCUR IN HOUSE BILL 274.

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of House Bill 274. Senator Rea will carry HB 274 to the Senate floor.

HEARING ON HOUSE BILL 769

Presentation and Opening Statement by Sponsor:

Representative Vicki Cocchiarella, House District 59, said House Bill 769 clarifies continued membership rights for employees in the Public Employees Retirement System who terminate covered employment.

Proponents' Testimony:

Linda King, Assistant Administrator of the Public Employees' Retirement Division, asked for favorable consideration of House Bill 769 and read her testimony into the record. (Exhibit 1)

Opponents' Testimony:

None

Questions From Committee Members:

Senator Farrell asked about the part at the bottom of page 2 "while employed in a position covered by Public Employees' Retirement System at age 65"?

Linda King explained that if they didn't have vested rights, if they didn't have 5 years service, and if they are not actively employed they are not eligible to receive retirement benefits at age 65 regardless of years of service. If you terminate with less than 5 years service, you can leave your money in the fund. In that case, you would receive your deposits plus interest. This is a clarification to a policy that is being followed.

Closing by Sponsor:

Representative Cocchiarella urged them to concur in House Bill 769 and asked Senator Rea to carry it to the Senate.

EXECUTIVE ACTION ON HOUSE BILL 769

Motion:

Senator Pipinich moved that we DO CONCUR IN HOUSE BILL 769.

Recommendation and Vote:

The VOTE was UNANIMOUS in favor of HB 769. Senator Rea will carry it to the Senate floor.

HEARING ON HOUSE BILL 577

Presentation and Opening Statement by Sponsor:

Representative Harper, House District 44, Helena, said House Bill 577 provides active duty military leave benefits. It comes at the request of a constituent who was called to Desert Shield. This bill deals with pay. It allows up to 30 working days of salary for a person called to active duty. It provides 30 days sick leave, 30 days annual leave and thereafter that rate will be accumulated at 25% rate. There are some amendments that will be offered in terms of retirement. (Exhibit 3)

Proponents' Testimony:

Hal Manson represents the American Legion of Montana, and is Vice President of the United Veterans Committee of Montana. This is a fair bill for persons called to serve their country. The Reserves and National Guard are necessary because the country doesn't keep a full time army, navy, marine corp, and air force during peace time.

Larry Nachtsheim, Administrator of the Public Employees' Retirement Division presented the amendment to the committee. (Exhibit 3) The Retirement Board put a deferment on all the employees contributions, while they were in active duty. If you enact HB 577, this is a mechanism that says employees don't have to pay into the retirement fund. It also says they shall be given retirement credit for those months of service they are absent up to a maximum of 1 year. The employer would still make the state contribution as if the person was working in Montana. Since the fund would be absorbing the cost, the actuary suggested the maximum of 1 year.

Darrell Holzer, representing the Montana State AFL-CIO, supports House Bill 577. This offers financial support and stability by way of supplemental wages and benefits.

David Senn, Executive Director of the Teachers' Retirement System, supports HB 577 and the amendments offered by the PERB. These amendments do exactly what the TRS would do. They have given the service time to them at no cost to people serving in active duty in WWI, WWII, Korean Conflict and Vietnam. His question goes to section 2 where it defines employees, and he asks the committee to include school districts. He said teachers will lose their salary for the time they are overseas. TRS would allow them to make the contribution under current statute. This bill allows them to receive credit at no cost to the individual. Please support this bill.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Blaylock asked if we do this are we discriminating against those working in the private sector? Hal Harper responded that many companies have already made provisions to supplement these people who work for them.

Senator Hockett asked about section 7 being tied in with House Bill 767? He said there are a number of students that aren't employed and is there any way to help them? Hal Harper responded he has talked to the Commissioner of Higher Education and he wrote a letter that says, that all military personnel called up at this time should be given every consideration, ie. assignment of final grades where sufficient work has been completed, incompletes so they can return to student status, and asked all the different universities to ensure fair treatment. Senator Hockett said the Commissioner didn't address any financial dislocation aid for these people. Senator Pipinich said we have a bill coming up that will give a bonus to all the military serving in Desert Shield. They have found some money and they are trying to give them the bonus.

Representative Harper said there are a number of federal benefits enacted that will help these individuals, too. They even have a relief act to help with mortgages and car payments. He said this bill addresses the idea that the people are leaving a job that is already budgeted for, so that amount is there. There should be vacancy saving as a result of this bill.

Senator Rea said that on page 2, line 23 and 24 that the individuals will continue to receive his regular wages provided by law for up to 30 days. The one we just tabled said he would receive the difference between the 2 wages.

Senator Rea said it appears under this bill he would get full military pay, plus full state pay. Is that correct?

Senator Fritz asked if the employer would be paying both the employers' and the employees' retirement? Hal Harper said no one pays the employees share.

Representative Harper said that with the current conflict now being over, this retirement cost is an amount we can absorb, but had the conflict continued, we couldn't continue with the retirement payments. That's why they have a termination date.

Larry Nachtsheim said there are 67 people in all the state retirement systems that would benefit from this legislation. He couldn't allow it to remain open indefinitely. This would increase the unfunded liability less than 1 month.

Senator Fritz asked if the people who belong to the Optional Retirement Plan would benefit from this legislation? David Senn said that plan is not included in the amendments that were presented.

Senator Hockett said he is concerned that this helps only 67 persons. Are we setting a precedent for the future? The fairness issue is a worry here. David Senn said people can buy their time in the retirement system by paying both employer and employee contribution. What this bill does is grant them some pay. Larry Nachtsheim said that if you do pass this bill, this is a mechanism that would work for the retirement division. The only thing that would change for this division under this bill is the individual contributions, which can be absorbed by the funds for up to 1 year.

Senator Hockett asked what happens to injured individuals who are hospitalized for an extended period of time? There hasn't been any news of any Montanans being injured.

Closing by Sponsor:

Representative Harper thanked the committee for a good hearing. He suggested a sunset ruling be added or this would be left on the books forever. He thinks the retirement part of the bill should be temporary and the other part of the bill should be permanent. He said Senator Pipinich would carry it to the Senate.

Discussion:

Senator Pipinich expressed concern not to leave this wait too long for action.

Senator Farrell called attention to section 4, that said it provides their full salary provided by law for up to 30 working days. He wants that amended to read the difference between the

SENATE STATE ADMINISTRATION COMMITTEE

March 8, 1991

Page 7 of 7

military salary and the state salary. If the military salary is greater, there wouldn't be any state salary paid.

David Niss said these bills are not in conflict. In HB 734 there is a coordination instruction that begins on the bottom on page 2 to coordinate with HB 577. It says if 577 passes then the supplemental pay starts after the 30 days of full pay. It was the intention of the sponsors to do 2 different things with each bill.

Senator Farrell asked David Niss to draft an amendment to HB 577 to make the pay supplemental between military pay and state pay.

Senator Blaylock said this bill directs the county, city, town governments to pay this. We aren't saying we'll give them the money to do it. Senator Pipinich said they were paying the individual anyway, and now he's gone so they have the funds in their budget. Senator Blaylock said we are setting a real precedent here. They have to replace some of the people, because the work must go on. The amendments terminate it in 1993.

Senator Hockett asked about health insurance for the military people? If they continue to get their pay, will they continue to pay their benefits? If we pay their benefits and their salary, that is a bonus.

Senator Blaylock suggested we amend this to include school districts. If you put this bill through, it should be done. Teachers must be replaced, so there wouldn't be any vacancy savings there, even supplemental.

ADJOURNMENT

Adjournment At: 11:15 A.M.


ELEANOR VAUGHN, Chairman


DOLORES HARRIS, Secretary

EV/dh

SA030891.SM1

ROLL CALL

STATE ADMINISTRATION COMMITTEE

DATE March 8, 1991

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR ELEANOR VAUGHN	X		
SENATOR BOB PIPINICH	X		
SENATOR JOHN ANDERSON	X		
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 March 8, 1991

COMMITTEE ON State Administration

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

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 ask for your favorable consideration of this bill which clarifies PERS membership rights to the members of this retirement system.

The two subsections being added to 19-3-401 precisely state the membership rights of a member as of his first day of membership service and those which accrue after he or she has completed 5 years of creditable service. This clarification is necessary in order that PERS members do not unknowingly give up important and substantial retirement benefits. Providing this clarification will also protect the interests of the retirement system.

The first amendment to 19-3-901 clarifies that a member must have attained age 65 **while in active service** in order to be eligible for a service retirement allowance regardless of his years of creditable service.

The second amendment to 19-3-901 updates old language which was enacted when the PERS only covered state employees. Since it is clearly the intent of the PERS statutes that a member with 30 years of creditable service (not limited to service with the state) may retire regardless of his or her age, the language of this section has been changed to coincide with this intent.

There are many clarifications and other "housekeeping" types of changes needed in the retirement statutes. The Board has requested budgetary authority to hire a consultant to assist in the drafting of a proposed recodification of PERS and other retirement statutes which will be presented to an upcoming Legislature. The Board has decided that the clarifications provided by this bill are too important to put off and urges your favorable consideration.

SENATE STATE ADMIN.

TESTIMONY ON HB 274

EXHIBIT NO. 2

DATE 3-8-91

BILL NO. HB 274

Presented by Larry Nachtsheim, Administrator
Public Employees' Retirement Division

The Public Employees' Retirement Board supports HB 274.

Section 3 of this bill amends section 19-9-801 of the Municipal Police Officers' Retirement Act to permit police officers who have worked in other public service or the military, and who have paid the actuarial cost of crediting this service into the MPORS, to include this service as part of the 20 years need to retire.

This bill has no actuarial cost to the system since each individual officer is required to pay the full cost of qualifying this service into the MPORS.

The Board solicits your support for this bill.

NEW SECTION. Section 4. Leave with pay -- EMPLOYEE RETIREMENT CONTRIBUTION PAID. (1) An employee in an active duty military leave status under [section 3] shall continue to receive his regular wages or salary provided by law for up to 30 working days from the time of his activation. PAYMENTS UNDER THIS SECTION WILL NOT BE CONSIDERED AS SALARY, COMPENSATION OR EARNED INCOME FOR RETIREMENT CONTRIBUTIONS OR BENEFIT CALCULATIONS UNDER TITLE 19, CHAPTERS 3, 4, 7, 8, 9 AND 13.

STRIKE SUBSECTION (2)

INSERT: NEW SECTION. Section 5. Retirement Contributions. AN EMPLOYEE IN AN ACTIVE DUTY MILITARY LEAVE STATUS UNDER (SECTION 3) FOR THE LESSER OF ONE YEAR OR THE DURATION OF THE EMPLOYEES' ACTIVE DUTY UNDER (SECTION 3) SHALL BE GRANTED NORMAL RETIREMENT SERVICE CREDITS SUBJECT TO THE FOLLOWING:

(1) THE EMPLOYEE HAS NOT TERMINATED HIS MEMBERSHIP IN THE RETIREMENT SYSTEM BY WITHDRAWING HIS CONTRIBUTIONS;

(2) THE EMPLOYER AND THE STATE WILL MAKE NORMAL CONTRIBUTIONS BASED ON THE MEMBER'S COMPENSATION FOR THE LAST FULL MONTH REPORTED TO THE RESPECTIVE RETIREMENT SYSTEM PRIOR TO THE EMPLOYEE'S CALL TO ACTIVE DUTY UNDER (SECTION 3) AS FOLLOWS:

(A) FOR MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE EMPLOYER CONTRIBUTIONS UNDER 19-3-801(1);

(B) FOR MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM, THE EMPLOYER CONTRIBUTIONS UNDER 19-4-605;

(C) FOR MEMBERS OF THE SHERIFFS' RETIREMENT SYSTEM, THE EMPLOYER CONTRIBUTIONS 19-7-404;

(D) FOR MEMBERS OF THE GAME WARDENS' RETIREMENT SYSTEM, THE STATE CONTRIBUTIONS UNDER 19-8-504;

(E) FOR MEMBERS OF THE MUNICIPAL POLICE OFFICERS' RETIREMENT SYSTEM, THE STATE CONTRIBUTIONS UNDER 19-9-702 AND THE EMPLOYER CONTRIBUTIONS UNDER 19-9-703;

(F) FOR THE MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM, THE STATE CONTRIBUTIONS UNDER 19-13-604 AND THE EMPLOYER CONTRIBUTIONS UNDER 19-13-605.

(3) THE EMPLOYER WILL REPORT THE EMPLOYEE'S RETURN TO COVERED EMPLOYMENT TO THE PROPER RETIREMENT SYSTEM WITHIN 30 DAYS OF THE DATE OF REEMPLOYMENT AND SHALL MAKE THE CONTRIBUTIONS REQUIRED UNDER THIS SECTION.

[RENUMBER SUBSEQUENT SECTIONS]

STRIKE SECTION 7: COORDINATION INSTRUCTIONS.

INSERT: NEW SECTION 10. TERMINATION DATE. [THIS ACT] TERMINATES JULY 1, 1993.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 274 (third reading copy -- blue), respectfully report that House Bill No. 274 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

LS 3/8/91
Amd. Coord.

CR 3-8 11:45
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 769 (third reading copy -- blue), respectfully report that House Bill No. 769 be concurred in.

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

JA 3-8-91
Smd. Coord.

SK 3-8 11:45
Sec. of Senate

50111830.911