

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIR, on January 14, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chair (R)
Rep. Wilbur Spring, Vice Chair (R)
Rep. Ervin Davis, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Pat Galvin (D)
Rep. Bob Gervais (D)
Rep. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. Sheila Rice (D)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Norm Wallin (R)

Members Excused: None

Members Absent: None

Staff Present: Sheri Heffelfinger, Legislative Council
Dorothy Poulsen, Committee Secretary

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

Committee Business Summary:

Hearing: SB 2; SB 36
Executive Action: SB 2

HEARING ON SB 2

Opening Statement by Sponsor:

SEN. HARRY FRITZ, Senate District 28, Missoula, introduced SB 2 by request of the Montana Historical Society. He stated the bill establishes a permanent non-expendable acquisitions trust fund

for the Historical Society. The trust is funded through private donations, usually through wills or bequests of stocks and bonds, and invested by the Board of Investments. The Historical Society uses the interest from the trust to acquire items of historical and archaeological value.

SEN. FRITZ explained that the Historical Society has been following the practice set out in SB 2 for the last 12 years. The bill is necessary because of a recent audit exception; the Historical Society is not spending the donations prior to spending its general fund appropriation. To address the audit recommendation, SB 2 exempts the acquisitions trust revenue from the requirement that non-general fund money be expended first. **SEN FRITZ** deferred to **Brian Cockhill** for further explanation.

Proponents' Testimony:

Brian Cockhill, Director, Montana Historical Society, stated that SB 2 is basically a housekeeping bill. It was reviewed by both Governor Stephens' office and the Legislative Auditor's office and met with their approval. **Mr. Cockhill** stated that SB 2 accomplishes two purposes. First, it allows the Montana Historical Society to satisfy the recommendation of the 1991 audit. He added that the actual trust fund has existed since 1980 and was established to comply with a 1979 audit recommendation.

Mr. Cockhill continued that, secondly, SB 2 provides the Historical Society with a fund for new acquisitions. **Mr. Cockhill** explained that in order for the Historical Society to remain a viable museum, it must have funds for acquisitions. He stated that, with two exceptions, the Legislature has never appropriated money for acquisitions for the Historical Society. Thus, the Historical Society must find funds elsewhere.

Mr. Cockhill explained that valuable items were rarely donated to the Historical Society; and because there were many collectors in the market for such objects, the Historical Society had to compete for them. He also stressed that when valuable collections became available, the Historical Society had a limited time in which to try to acquire them. Thus, the Historical Society needs funds readily available when valuable objects are obtainable. **Mr. Cockhill** concluded that SB 2 would not represent a significant cost to the state; he estimates that on the average, the Historical Society receives \$250 per year in donations to the acquisitions trust. Under SB 2 this donated money would not replace general fund money; therefore the cost to the state would be less than \$250 per year.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. ROSE asked Mr. Cockhill how much money was currently in the trust. Mr. Cockhill answered \$30,000.

REP. MOLNAR asked Mr. Cockhill about the expenditure of the \$250 of general fund money. Mr. Cockhill stated that the \$250 would be money already appropriated for the Historical Society.

REP. SIMPKINS asked Mr. Cockhill whether the policy has been that any donation over \$500 goes to the general fund. Mr. Cockhill responded that donations go to the treasury, not to the general fund. The Historical Society has been allowed to use their donations for whatever purpose they chose. Smaller donations have been used for education programs; larger donations have always been placed in the acquisitions trust.

REP. SIMPKINS asked Mr. Cockhill whether during the 1991 session the Legislature had established the Daly Mansion Trust Fund similar to SB 2 for the Historical Society. Mr. Cockhill responded that he had spoken in favor of the Daly Mansion Trust Fund, but the fund was not for the Historical Society.

REP. SIMPKINS clarified that the only money that might be lost to the state would be interest on the trust fund which previously the treasury had not turned over to the Historical Society. He asked whether that amount would be significant. Mr. Cockhill stated that the amount would not be large, perhaps \$1,000-\$1,200.

Closing by Sponsor:

SEN. FRITZ closed.

HEARING ON SB 36**Opening Statement by Sponsor:**

SEN. DELWYN GAGE, Senate District 5, Cut Bank, introduced SB 36, by request of the Legislative Council, to revise laws to reflect the loss of a congressional district by the State of Montana. The bill also defines four geographical districts (Page 9, lines 19-25; Page 10, lines 1-8) with comparable populations to be used in appointing individuals to the Apportionment Commission. SEN. GAGE stated that the districts were planned in order that one person/one vote representation would be maintained. These same districts would also be used for appointments to the Board of Regents and the Board of Public Education.

SEN. GAGE stated that as originally drafted, SB 36 did not include other boards whose membership would be affected by the loss of the Congressional district. The Coal board requested inclusion, however, and an amendment has been prepared for their

inclusion in the bill. **EXHIBIT 1**

SEN. GAGE stated that very recently the Hard-rock Mining Impact board has also requested inclusion, and he would have an amendment drafted for their inclusion also.

Proponents' Testimony:

Hershel Robbins, Roundup, Musselshell Valley Development Corporation, stated that he was in support of the amendment to SB 36 to include the Coal board because it requires that appointees be geographically distributed.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. RICE asked **SEN. GAGE** whether he had maps showing the four geographic districts. **REP. GAGE** responded that he would obtain a map for the committee.

REP. ROSE asked **SEN. GAGE** whether individuals could be appointed from a single community and whether the amendments would avoid that situation. **SEN. GAGE** answered that the amendments prevent single-location appointment for the Coal board and the Hard-rock Mining board. He agreed that any boards not covered by the districts could have all their appointments from the same community. **SEN. GAGE** contended, however, that no governor or other appointing authority would be likely to invite the attack such action would precipitate.

REP. SIMPKINS clarified that SB 36 would prevent one-location appointments for the Board of Regents, Board of Public Education, and the Apportionment Commission. **SEN. GAGE** concurred, and added that with the amendments, the Coal board and the Hard-rock Mining board would also be included.

REP. GALVIN asked **SEN. GAGE** whether the reason the four geographic districts contained differing numbers of counties was because the districts were based on population. **SEN. GAGE** answered affirmatively, stating again the goal of maintaining the one person/one vote principle.

Closing by Sponsor:

SEN. GAGE stated in closing that without SB 36, Montana codes will refer to a Congressional district which no longer exists. The bill also provides some guidance for appointments. He concluded that he would obtain a map and the amendments for the committee. **SEN. GAGE** said that **REP. MENAHAN** would carry the bill, if it passes the committee.

REP. SIMPKINS closed the hearing on SB 36. Mr. Cockhill was still present and REP. SIMPKINS asked him, for REP. GALVIN, what happened with money the Historical Society received when they sold objects. Mr. Cockhill responded that the Historical Society rarely sells anything and would do so only because the item was redundant. He said that any money received from sales would be used for acquisition and would be returned to the acquisition trust for that purpose.

EXECUTIVE ACTION ON SB 2

Motion/Vote: REP. SPRING MOVED SB 2 DO PASS. The motion passed unanimously. REP. MASON voted by proxy. EXHIBIT 2

SEN. SPRING, as a former member of the Gallatin County Museum, expressed his desire to carry SB 2 to the House.

REP. SIMPKINS announced that the briefing on Montana's Public Retirement System, in conjunction with the Senate State Administration committee, would commence at 10:00 a.m. EXHIBIT 3

REP. RICE distributed two documents: (1) "Testimony of Steve Johnson, Chief Labor Relations Bureau, Department of Administration" on collective bargaining presented to the House State Administration Committee on January 8, 1993; and (2) "MPEA'S RESPONSE TO THE STATE FACTOR" by Thomas E. Schneider. EXHIBIT 4 AND EXHIBIT 5

ADJOURNMENT

Adjournment: 9:38 a.m.


DICK SIMPKINS, Chair


DOROTHY POULSEN, Secretary

DS/DP

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION

COMMITTEE

ROLL CALL

DATE

1/14/93

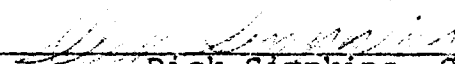
NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP. GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

HOUSE STANDING COMMITTEE REPORT

January 14, 1993

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that Senate Bill 2 (third reading copy -- blue) do pass .

Signed: 
Dick Simpkins, Chair

Amendments to Senate Bill No. 36
Third Reading Copy

Requested by Senator Gage
For the Committee on State Administration

Prepared by Greg Petesch
January 9, 1993

1. Title, line 9.

Strike: "AND"

Following: "REGENTS"

Insert: ", AND THE COAL BOARD"

2. Page 5, line 4.

Strike: "and"

3. Page 5, line 5.

Following: "education"

Insert: "; and

(iii) at least one but not more than two from each
district provided for in 5-1-102"

EXHIBIT 1
DATE 1/14/93
SB 36

Memo

FROM

Gary D. Mason

TO CHAIRMAN SIMPKINS.

I WERE BY ASK

REP. SPRING TO

VOTE FOR ME AS

HE SEES FIT. ON

1-14-93 IN STATE

ADM. COMMITTEE

THANK YOU

Gary D Mason

EXHIBIT 2
DATE 1/14/93
SB 2

MONTANA'S PUBLIC RETIREMENT SYSTEMS

A Legislator's Guide 1993

Published by
Montana Legislative Council
Room 138
State Capitol
Helena, MT 59620
(406)444-3064
FAX (406)444-3036

EXHIBIT 3
DATE 1/14/93
~~HB~~ House STATE ADMIN.

PLEASE NOTE: COMPLETE DOCUMENT
MAY BE LOCATED AT THE

TESTIMONY OF STEVE JOHNSON, CHIEF
LABOR RELATIONS BUREAU
DEPARTMENT OF ADMINISTRATION

House State Administration Committee

January 8, 1993

EXHIBIT 4
DATE 1/14/93
~~House State Admin.~~

COLLECTIVE BARGAINING IN MONTANA STATE GOVERNMENT

I. History of Collective Bargaining

A. History of Legislation

1. Registered professional and licensed practical nurses were the first group of public employees to be afforded right to bargain collectively by the legislature in 1969. Act was originally administered by the State Board of Health. Subsequently transferred to Dept. of Labor and Industry in 1978 and to Board of Personnel Appeals in 1983.
2. Teachers were the next group to receive collective bargaining rights in 1971.
3. In 1973, the legislature extended bargaining rights to all public employees. Amended in 1974 to include university instructors. Amended again in 1975 to include teachers and the separate act for teachers was thus repealed. Major provisions of the collective bargaining act have remained basically unchanged to the present.
4. Although most public employees did not receive statutory collective bargaining rights until 1973 bargaining did take place prior to that date. State agencies, for example, had voluntarily recognized and bargained with employee organizations long before 1973. In fact, at the time the act was passed, there were already 55 bargaining units in place.

B. The Collective Bargaining Act for Public Employees

1. Closely patterns the National Labor Relations Act, which covers all private sector bargaining.
2. Covers all state and local government employees except:
 - elected officials
 - governor's appointments
 - supervisors, managers and employees who deal with confidential collective bargaining matters,
 - state board or commission members,
 - school district clerks and administrators,
 - professional engineers and engineers-in-training, and

--nurses (who are covered by a separate act)

3. Major Provisions of the Act

- A. Discusses right of public employee self-organization (right to organize, bargain collectively and engage in concerted activity, which, those of you who were here in 1991 understand as the right to strike)
- B. Deals with bargaining process itself (i.e., identifies the public employer's representative, lists management rights, discusses the duty to bargain in good faith, and sets forth dispute resolution procedures.)
- C. Defines unfair labor practices by the public employer and labor organization and provides remedies

C. Practical Implications in State Government

- 1. Employer's Representative--The law states that "the chief executive officer of the state, the governing body of a political subdivision, the commissioner of higher education, whether elected or appointed, or the designated authorized representative shall represent the public employer in collective bargaining...."
- 2. In the executive branch of state government, the governor has traditionally designated the chief of the labor relations bureau, through executive order, as the state's representative in collective bargaining. In our office, besides myself, there are three full-time labor relations specialists who serve as chief spokesperson at the bargaining table. Personnel representatives from each of the agencies also serve on the management bargaining team.

I should note that the collective bargaining act states that an agreement entered into according to the act's provisions is valid and enforceable, but the act does not limit the legislature relative to appropriating funds for salaries and benefits.

I think this means that although I can make a valid agreement on salaries or benefit contributions, the legislature does not have to appropriate the money to fund that agreement. As a result, we generally make any economic agreement that requires an appropriation contingent on approval by the legislature.

3. In the University System, the director of personnel and labor relations is designated by the Commissioner of Higher Education as the employer's representative in collective bargaining. Thus, my comments from here on out will apply only to labor relations and collective bargaining as it occurs in the executive branch.
4. There are presently about 6100 executive branch employees organized into 77 bargaining units in state government. Those 77 bargaining units are covered by about 60 separate collective bargaining agreements.
5. Bargaining units are generally organized by agency or agency subdivision, or by occupational group.
6. There are about 20 bargaining agents representing state employees in the executive branch. The labor organizations currently representing the largest number of state employees include:
 - a. MPEA > 3000
 - b. MFT/MFSE > 1500
 - c. AFSCME > 850
 - d. Craft Council Approx. 300

Together, these four organizations represent about 93% of all organized state employees.

D. The Bargaining Process

1. Collective bargaining in state government ~~in state government~~ can generally be divided into two phases: economic negotiations and non-economic negotiations. Sometimes these negotiations occur simultaneously and sometimes they occur separately.
2. Economic negotiations with the major labor organizations (primarily the four largest) usually commence in late summer or early fall in the year preceding the legislative session. Although the executive is required by law (17-7-111(3)(b), MCA) to submit its pay plan proposal to the Legislative Fiscal Analyst by November 15, negotiations often continue into and beyond the legislative session. There are exceptions to the standard timing for the beginning of negotiations--for example, this fall most bargaining agents were not interested in bargaining with the outgoing governor, thus, negotiations began late or, in some cases, have not begun.
3. If no agreement is reached prior to the legislative

session, an agreement is reached more often than not some time during the session. That agreement is generally incorporated into the pay bill passed by the legislature, and is applied to all state employees, even those not covered by collective bargaining agreements.

4. Once economic negotiations are concluded, negotiations over other terms and conditions of employment usually last until the end of the legislative biennium, at which time almost all state contracts expire.

E. Impact of Collective Bargaining on State Employee Compensation

1. Collective bargaining has had a substantial impact on state employee compensation. As mentioned earlier, the legislature, with few exceptions, has statutorily adopted pay increases and pay schedules reflecting negotiated economic settlements.
2. Because the statewide pay schedule covers both organized and non-organized employees, they have in almost all cases received the same pay increases.
3. Also, collective bargaining has impacted pay levels for legislative and judicial branch employees. Although these employees are exempted from the statewide pay schedule, funds appropriated by the legislature to legislative and judicial branch agencies for pay increases have been based on the amount required to grant similar increases to employees who are covered by the statewide schedule.
4. While I do not wish to downplay the importance of collective bargaining, its impact on state employee compensation has had mixed results. For example, most negotiated settlements have typically included some combination of a flat dollar and percentage increase. Over time, as was demonstrated in the earlier discussion on the salary survey, these pay practices have resulted in various salary compression problems.

Given the state's current fiscal quagmire, it is probably safe to assume that state employee compensation will not dominate the legislative agenda. However, I am hopeful that any future negotiated settlements and pay legislation will achieve a balance between the needs of organized employees and the needs of the state as an employer in a competitive market.

MPEA'S RESPONSE TO THE STATE FACTOR

by Thomas E. Schneider

The State Factor (the Report) is a publication by the Legislative Exchange Council. An article printed last February blames public employee compensation for bankrupting state governments. The Report states that, since 1980, average state and local government employee compensation, which includes wages, salaries, and benefits, has risen more quickly than average private employee compensation. Salaries for public and private sector employees were adjusted for inflation by using regional consumer price indexing and the result was a state-by-state comparison.

The Report mandates that public employees should be paid comparable to similar employment in the private sector and this compensation should be further discounted for non-monetary advantage of public employment, such as employment security, employer security, and non-monetary benefits such as holiday and vacation pay.

It further explained that the most reliable indicator for determining appropriate pay level compensation is employee turnover rates. The Report states, "If employee turnover rates in the public sector are less than that of comparable positions in the private sector, it can be assumed that compensation in the public sector is too high." Even though this premise is relied upon through the Report, no comparison to state, local, or private sector turnover was provided or reviewed.

Turnover rates in the State of Montana and the "brain drain" was the impetus for a legislative interim committee to study State employee compensation. Montana's turnover rate for July 1989 to July 1990 concluded that 36.9% of all FTE in State government (excluding the universities) left their positions and 13.8% of the work force left State service. The total turnover was 1290 full-time employees. The following year, after a major revision in a pay plan and numerous occupational pay exceptions, a reduction in turnover rate occurred. From July 1991 to June 1992, the turnover rate was reduced to 22.4% FTE with 11.1% of the total FTE leaving State service. The total turnover of FTE was approximately 1230. These FTE rates for the State of Montana do not consider temporary, or seasonal employees.

Turnover of FTE leaving State government is the most costly type of turnover. In FY 1990, Grade 14 and 15 positions representing 1,805 FTE or 19% of the State's professional work force left Montana state government. The following year, the State's turnover report did not itemize turnover by grade, so data for a similar comparison is not available. Rollie Waters, of the Waters Consulting Group, Inc., a compensation consultant, hired by the Committee for State Employees Compensation, states that hidden costs of turnover, recruiting, training, and progression through each job costs approximately \$1,200 per semi-skilled jobs and ranges from \$5,000 to \$10,000 for each professional and management position. The State's turnover was higher than the local private sector and ranked 4th highest of 13 western states in 1990.

In addition to the State's inability to retain employees, there has been a demonstrated inability to recruit qualified employees by a steady rise in the number of individual and occupational pay exceptions. Because of low compensation and refusal of qualified applicants to accept offered wages, the Department of Administration spent over \$46,000 in a national search for six programmer analysts in December 1990. This loss of productivity, due to turnover, has resulted in a more recent supplemental request in this year's budget, Department of Administration's Information System Division's inability to retain qualified employees has resulted in additional costs to put the State health insurance on-line.

The Environmental Protection Agency, another government agency, has written twice to the Department of Health complaining about the lack of experience of engineers and environmental specialist. EPA has previously stated that although current employees are making a "valued effort," the agency was behind schedule on every program tracked by EPA. Prior to a blanket pay exception, the Department of Transportation was unable to hire civil engineers with no experience even from our own universities because they were unable to pay the private sector salaries of approximately \$25,000 for starting wages.

On average, Montana employees' salaries for 1990 were 91% of what other Montana employers pay, and 87% of the five surrounding states. This would include a comparison of compensation, benefits, and vacation leave.

The State Factor reports that Montana pays more than 16% above their private counterparts. It does not identify who the

counterparts are and it is an estimated salary for full-time equivalent employees. The Report also indicates that from 1980 to 1989, private salaries increased 34%, while state government salaries increased 52%. Those figures were adjusted by the Report for inflation, resulting in private compensation loss of 11.7%, and a State gain of 3%. The Report indicates that it is unreasonable that a State employee, over approximately one decade, should receive less than a 3% salary increase above a regional inflation adjustment.

The State Department of Labor & Industry prepared a Salary Survey Report of October 1991 that states that Montana per capita income rose approximately 29.6% from 1986 to 1990. During this same time period, State employees' average salary rose only 8.2%. State employees, on average, did not fair as well as the private sector for those 5 years.

The new market based pay system compares similar occupations of State employees to other employees within the State and out-of-State. The State Factor Report on page 24 states that, "generally, public policy should be that employees be paid the same as private employees doing comparable work." That is the philosophy of the new market based system, and that is what MPEA is requesting the State to do. Average pay in the private sector should be the average pay for State employees doing comparable work.

The State Factor report also goes on to say that, "If public employee turnover rate is more than that of the private employees, then it can be assumed that public employees are

underpaid." Considering that caveat, it is important to look at the State of Montana's turnover rate and it's hidden costs to the State, and again reminding you that Rollie Waters of the Waters Consulting Group stated to the hidden cost of turnover, recruiting and training costs approximately \$1,200 for a semi-skilled job and ranges from \$5,000 to \$10,000 for each professional and management position.

There is substantial evidence that State's salaries are not able to attract and retain good employees. Historic State employee compensation practices has negatively impacted this State's ability to provide services to it's tax payers and has cost the State money in the long term.

EXHIBIT 5
DATE 1/14/93
B House State Admin.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration

COMMITTEE

BILL NO.

SB 2

DATE

1/14/93

SPONSOR(S)

Senator Fritz

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Brian Wickham	MHS	✓	
Sharon McCabe	MHS		
Glenn Harmon	MT Cmt Comm	✓	

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

State Administration COMMITTEE

BILL NO. SB 36

DATE 1/14/93 SPONSOR(S) Senator GAGE

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>H. J. M. Ralston</i>	<i>MVP Corp. Richmond, VA</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Long D. L. L. L.</i>	<i>Leg. Council</i>	<input type="checkbox"/>	<input type="checkbox"/>
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