

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Senator Eleanor Vaughn, on March 29, 1993, at
10:00 a.m.

ROLL CALL

Members Present:

Sen. Eleanor Vaughn, Chair (D)
Sen. Jeff Weldon, Vice Chair (D)
Sen. Jim Burnett (R)
Sen. Harry Fritz (D)
Sen. John Hertel (R)
Sen. Bob Hockett (D)
Sen. Bob Pipinich (D)
Sen. Bernie Swift (R)
Sen. Henry McClernan (D)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: None.

Staff Present: Greg Petesch, Legislative Council
Deborah Stanton, Committee Secretary

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

Committee Business Summary:

Hearing: SB 410
Executive Action: SB 410

HEARING ON SB 410

Opening Statement by Sponsor:

Sen. Rye, Senate District #47, presented SB 410. SB 410 would reduce the number of years of service required for normal retirement benefits under the Sheriffs' Retirement system. The original funding source for this bill was the proposed 2% increase in the gaming machines around the state. The Senate Taxation Committee decided that that was an unacceptable source because the gaming machine operators are unable to pass the cost on to the consumers. Therefore, a tax on beer was suggested by Senator Gage as a substitute and that is where the bill currently stands. It was going to be argued on that basis on the floor

this morning prior to Senator Fritz's successful motion to refer it to this committee. The cause is an exceptionally good one and the funding source does not excite anyone, including the sponsor, but neither did the original one. The cause is good enough that a funding source must be found to fund this bill because it is that important to the Sheriff and Sheriff's Deputies.

Proponents' Testimony:

Bill Slaughter, Sheriff from Gallatin County, rose in support of SB 410. He said this is the only emergency service that exists now without a twenty year retirement plan and without a third funding source for the Sheriffs and their deputies. "The video lottery tax is appropriate because of the rise in burglary and bad checks in bars since gambling has been made legal. The beer tax should be appropriate because 95% of those that are in my jail, that my deputies have to deal with, are under the influence or affected by alcohol. We did not suggest the beer tax as was explained in the committee. The health and the welfare of the Sheriff's deputies, after twenty years, is such that most of them should retire. It's much like serving in the Legislature. The beer tax money is now only used by cities for law enforcement training. It is not used by counties. That's something that has been confusing. City Police Officers and Chiefs of Police make considerably more than Sheriff's deputies. For example, in Gallatin County, the Chief of Police in Bozeman makes \$10,000 more a year than I do. There is a differentiation there. Please support SB 410."

Bill Fliner, Board member of the Montana Sheriff's and Peace Officers Association, spoke in support of SB 410. On February 5, 1992, this association made a presentation before the joint interim subcommittee of the 52nd Montana Legislature on Public Employee Retirement Systems. Reference was made from an established weekly newspaper, that is not law enforcement related, that predicted by the year 2000 or shortly thereafter one of the most highly paid professions will be law enforcement. Not because we will be attracting brighter or more educated men or women. Not because we will be fulfilling the dreams or visions of youth who can attain their career goals. But because nobody will want to do it any more. The question presented at that time that still remains unanswered, if there is one position available and five candidates apply will the choice be made from the very best or will the choice be made from the very best of the worst candidates to protect your life and property. Sheriffs and deputies have the very broadest scope of enforcement authority and the primary mission is investigatory and not revenue generating sources in their community. They serve as the primary resource to fulfill your mandates as well as the orders of the court. Through the election process in local communities, when a sheriff attempts to stray from the mission of the federal and state programs, the sheriffs who do not focus on the primary mission, the voters have spoken loudly by getting a sheriff who

will fulfill your mandates for the enforcement in counties across the state. In addition, added to enforcement there is a myriad of other jobs that have been determined to be fitting for sheriffs and deputies, such as coroner, fire warden, disaster and emergency services, correction and detention, civil process and humane officer. The one that is discounted the most and has as equal priority to a sheriff as well as his law enforcement functions is the corrections and detentions for the jail. That is also created in the counties because of I-105, the inability for sheriffs to be able to provide the law enforcement services that he needs to be providing because of the two equal and important priorities. These other delegated duties are not presented to you in terms of moaning and groaning but rather as a very fitting tribute to an elected official who qualified to be assigned the duty of public safety. Who better do we train to be the general practitioner to respond to the needs of local citizens in your counties than sheriffs and deputies who fulfill their primary mission. During the Joint Interim Subcommittee that I referred to earlier, there are several documents prepared by the Legislative staff person and the significant information contained in those findings are charts. One part of that is the average retirement age for sheriffs in the system is 61 years of age. The only other age group is judges and their average retirement age is 65. The accepted norm for longevity is 5 to 8 years after retirement at those ages. Using what I am most familiar with as experience in my own department, no one is alive today who retired in 1965. There is psychological, physiological, and sociological changes that occur after retirement in later years that a retiree may not be able to adapt to. A younger retiree has the energy and strength to make these transitions and re-educate his or herself into another workforce that an older retiree may not have the opportunity to benefit from. Law enforcement in many ways, can be likened to a professional athletic team. It behooves a community to employ the person at a youthful age, use the benefits of his or her youth, disassociate them at an early age so they may move on to other interests while they may still be employed. There is a benefit to counties in supporting this legislation because the cost associated with the calculation of sheriff's and deputies's salaries also includes longevity. The cost of a 20-year employee who is losing a substantial amount of his strength and energy to keep pace with ever changing criminal activity versus the cost of the employee who is maturing is significant. Public Employees Retirement System objects to the increase of 2.5% accrual for the years of service with a cap of 70%. The reason for this is their fear is that this will create a leapfrog effect with the other public safety retirement systems. We pay social security. That is an additional 7% that the deputies are paying. So with the 7% that they are paying into their retirement system, they are paying 14%. Municipal police do not pay social security. They have declined three opportunities to do that. This will not create a leapfrog effect, it will bring us equal with them. This does not give the Legislature the impetus to have to increase that retirement benefit past 2.5%. It gives the encouragement to

join social security, if there is going to be an increase of 2.5% to any of the other systems, this association may have to come and oppose that. This is the norm across the country of what is acceptable in law enforcement to get somebody in, get them out, give them 50% and be done with them. The impact of I-105 and how sheriff's deputies salaries are calculated is a very important factor. Frozen salaries by counties have affected retirements due to the fact that annually the increases are used in the next year's computations to refigure the base salary of sheriffs and deputies. We do not negotiate for wages. We are tied to the elected officials salary structure. When the sheriff gets a raise, the deputy gets a raise. The minimum for that is 72% and the maximum is 95%. Annually the figures do not mean much but actuarially over the 20-year career the return on the investment is not there and does serve as a loss to the contributing peace officer because his base is not going up. Some of the salaries have been frozen from 1986 through 1991 before the elected officials new salary bill went through in the last session. That base salary is detrimentally affected in the calculation of their long term retirement. We brought the state investigators into this system at the state's request. The reason that they were brought into this system, was to aid the state in their recruitment. In the Governor's words, he considers us to be America's finest. But he does not feel this marriage with the gaming industry is a good marriage. He does feel that the intent of the legislation is appropriate. We did visit with him about the possibility of attaching this to the sales tax and it was at that time that he said he has no position on that and the intention of the 20-year retirement is appropriate.

James Casheu, Deputy Sheriff of Gallatin County Sheriff's Department and Board member of the Montana Sheriff's and Peace Officer's Association, rose in support of SB 410. He stated they have the only system that has 0% unfunded liability. The system is totally solvent and always has been with contributions from employer and employee. There is no third or fourth funding source. Every funding source they have looked at either belonged to the Highway Patrol, the PERS, the Fish and Game or the Teachers, and there has not been a funding source out there. That's the reason for looking at this source. They are looking at something that will not increase the debt zone of the state or put another system out there. He stated they are looking for fairness for their people as far as being able to compete with police departments and highway patrol and other agencies in other states. When someone applies to go to work for us and we tell them that they have to work 24 years and be 50 years of age before they are eligible for retirement, he either takes a look at us and goes elsewhere or he works until he has been through the academy and leaves to go into another 20-year retirement system. It makes it very difficult for the departments to function with people that are young enough to put in 20 years of service.

Greg Hintz, President of the Missoula County Deputy Sheriff's Association and also a member of the Montana Sheriff's and Peace Officers Association, asked the committee for support of SB 410.

Les Osborne, Musselshell County Sheriff's Office in Roundup, rose in support of SB 410 on behalf of the sheriff in Musselshell County, Paul Smith, and the Deputies Association and on behalf of the Sheriffs in Golden Valley, Wheatland and Petroleum Counties.

Sen. Delwyn Gage rose in support of SB 410. He commented that there were those who would say that this is a local issue. It should be funded locally. He said most of these people are enforcing state statutes, not local statutes, therefore the state has a stake in it. The beer tax currently is 4% of gross compared to 15% of gaming tax, 15% of coal tax, 15% on oil and gas. They are not overly taxed. They pay about \$.32 tax on a case of beer which is not a great deal compared to the problems that the alcohol industry causes in the state of Montana. One of the reasons the beer tax was chosen is because it can be passed on to the consumer where the gaming tax cannot be passed on.

Opponents' Testimony:

Linda King, Assistant Administrator of the Public employees Retirement Division, appeared on behalf of the Retirement Board and submitted written testimony (EXHIBIT #1).

Rep. Bob Pavlovich, House District #70, rose in opposition to SB 410 on behalf of the Montana Tavern Association. "I did not go into the Taxation Committee and oppose SB 410 because it had video gaming in it. We heard HB 669 in the House that included video gaming and it died and was indefinitely postponed. I just assumed, because we had video gambling in this bill, it would fall into the same title and we could not use that in the House. It was the same subject matter. Now we changed the bill and added the beer tax which does not fall into the title of the bill. I question the legality of that, changing the title of the bill. But getting away from that, those issues will come up if it does get to the House because I'll make sure to get the Rules Committee on that. I am representing the Montana Tavern Association of Silver Bow County of which I was a member and President for years. I've been in the business for 41 years. I've sold a lot of beer in my life. They're asking for \$1.65 on a barrel of beer and when you pass that down to a tavern owner you're looking at approximately \$.25 to \$.50 on a case of beer. So when you are a tavern owner you sell a bottle of beer for \$1.50 and a beer wholesaler comes in and increases your cost \$.25 to \$.50 on a case, you have two options. You either eat that cost as a tavern owner or you raise the price to get your money back because the wholesaler is not going to pay it. He will shuffle it down the line. So that means we are going to have increase our price. You can't raise it a nickel to \$1.55 because that makes too much small change so you have to raise it to

\$1.75. So that means you as consumers have to pay \$1.75. That hurts beer sales. So the people go to the grocery store to buy their beer, which they do now. They buy a lot of it there. Now, I see in this bill where we change the retirement from 24 to 20 years. I have a son who is a police officer in Butte, Montana. He falls under the Sheriff's jurisdiction in Butte Silver-Bow. I don't know if that affects him in this retirement or not. But I always felt that I worked 41 years and if anyone wants to retire, that's fine. I worked at my own business. I put my own money aside and I retired. It took me 41 years to do it. Now, here we have someone who wants to retire at 20 years and they want to retire on my money. That's fine if they want to retire but I think they should retire on their own money. They should at least work 30 years. They're going to retire in 20 years and they will go out and get another job. They will take a job away from somebody else who is looking for a job. Someone who is a lot younger. They asked for this job just like I asked to be in the bar business. And I did it for 41 years. I made a living at it. It was very tough and I had to put up with these people a lot of times. Most of the time it was good but some of the time it was bad. I would have loved to retire at twenty years. Or before I got to age 60. I'm 63 years old. It took me a long time to get where I am. I'd like to enjoy myself. But if you raise this beer tax, I have a problem. My partner who bought me out is going to jack the price of the beer up, his sales will go down and he will have a harder time making his payment to me so I can retire. I think this bill should be buried. They had their chance to get \$7 million every two years. But they didn't want that money because that was gambling money. I had a punch board and pull tab bill in the House worth \$7 million over the biennium. They could have it all. They could build their jails, they could have their retirement. They said it did not fit within their scope because they should not be tied in with the gambling associations. Yet they want to take our gambling money or our beer money, what's the difference. It all comes from the same place.

Steve Browning, representing Anheiser Busch, spoke in opposition to SB 410. He wanted to follow up on what Ms. King testified to as far as the revenue source providing adequate funding. The revenue that they are depending upon is one that comes from the LFA report. He read one paragraph from that report. "The beer consumption on a per capita basis declined from FY 87 through 89, however in FY 90 through 92, the per capita consumption increased reversing a nine year decline in trend. Consumption is anticipated to increase approximately 2.5% per year in the 1995 biennium." "The LFA does not get everything right and this is an area where they didn't. The reason that they didn't, is because beer sale is very much influenced by cost and in 1991 the federal government doubled the federal excise tax on beer from \$9 to \$15 a barrel. Also, the state Legislature increased beer taxes last year by 7%. If the LFA is right, we should see a 2.5% increase in revenues coupled with a 7% increase in revenues from taxes. I called the Department of Revenue and in January of 1992 beer tax

revenues were \$226,350. In January of 1993 beer tax revenues were \$226,308. Beer tax revenues actually decreased in a year when consumption was supposed to be going up and clearly it didn't. It should have increased because revenues went up 7%. In fact revenue declined. Beer tax is dealing with a product that is highly sensitive to price. Anheiser-Busch purchases \$15 million of malting barley from farmers in Montana. It's one of the best cash crops in Montana. We need to continue to buy that barley but we can only do it when we sell beer.

Roger Tippy, representative of the Montana Beer Wholesalers Association, spoke in opposition to SB 410. Budweiser does not think 2.5% a year is a realistic figure and the other brands do not either. The amount of beer tax the beer companies would be on the hook for is definitely a sliding, moving target. We are concerned about the possibilities of leapfrogging that PERS and Captain Fliner have given their points of view on and being looked to as a suitable source for other plans if they want to come in and play catch-up next year. We are also concerned about the ultimate effects of 40 FTEs from the Justice Department going on the Sheriff's retirement system which were not factored into the original fiscal note. Every tax increase on beer for 30 years has been related more directly than this to the social problems of alcohol. The last two tax increases in 1977 and 1985 were taken directly from the county alcoholism treatments programs in Galen and the adolescent program in the Department of Social and Rehabilitation Services. The increase in 1959 was instituted to go to the cities and towns for police and public health problems which have been used in alcohol related matters too. The fact that per capita beer consumption is off about 20% over the nine-year period that Mr. Brown alluded to is in part due to the good job that the Sheriffs have been doing in keeping people from inappropriate purchases of beer. We did not come in opposition to the bill the way it was originally introduced. We do not think that we are an appropriate funding source and we ask to delete the Senate Committee amendments. Perhaps HB 65 is the best solution.

Mark Staples, Montana Tavern Association, spoke in opposition to SB 410. He stated this is like a death sentence that says do you want it by hanging or firing squad. He said he was put in that position by the Senate Taxation Committee. He stated that whether it was gaming last week or beer this week, the whole approach is rather curious. Those two items are the most highly taxed items in this country and this state, and with beer there is every indication that the tax will double or triple. That is an industry that already pitches in enough. The people in our business do not have any retirement, much less at 30 years, much less at 24 years, much less at 20 years with half pay. We have sympathy for the Sheriffs but when we first went in and testified against this we said we thought this was a good bill except for the funding. It becomes clear the funding is always going to circle around us. Ms. King's arguments are compelling. I think we are going to create a leapfrog effect. I think they will all

come back at us. I have to disagree with Bill Fliner when he says nobody will seek these positions. I have lived in six rural counties and three big counties in the state and in each of those county elections, the sheriffs races are the most highly competitive and those position are very coveted. Even the deputy positions were positions that people competed for and were coveted. The pay must have some sufficiency to it because those positions are not going vacant. He urged the committee to reject SB 410.

Questions From Committee Members and Responses:

Sen. Fritz asked Bill Fliner what percentage of salary the Sheriffs paid for retirement. Mr. Fliner said the deputies pay 7% and the county pays 7.67%. Sen. Fritz asked if the Sheriff's and Peace Officers Association would consider raising 7% up to the level of the employer. Mr. Fliner said in the last session the big concern was the elected official's salary bill and that was why we did not address the 20-year retirement at that time. It was ten years from 1981 to 1991 before any addition was made to that base. Then the deputies were receiving a 70% cost of living along with their longevity. Since 1991 to the present there has been a disproportionment methodology used by county officials to elected officials that affect deputies with that new salary bill. Some of them have gotten a large share of it. Some have gotten a minimal provision cost of living and have been frozen after that. Some got 100% of the benefit in their salary increased and have been frozen for two years. One county has gotten 100% over the last three years. Those that got 100%, some have been frozen for two years after that.

Sen. Fritz asked Ms. King if she knew what that would raise. Ms. King said it would raise another .67% of salaries. The total cost of the bill is 6.2% of salaries. There would be 5.53% of salaries that would need a funding source.

Sen. Fritz stated the bill produces a massive increase in the sheriff's retirement benefits from 50% of salary to 70% of salary if they worked 28 years and he asked Mr. Fliner if that was correct. Mr. Fliner said the cap was 70% and that is not to be inconsistent with the presentation because the large pool of officers will retire at 20 years. They will not advance to supervisory, command, or elected official positions. The large pool cannot keep up with that. The energy and strength, in order to physically do this job, is not there for law enforcement officers. But we don't want to give them incentive to stay forever. Mike Schaffer was 58 years old with 34 years in law enforcement and he is dead today.

Sen. Fritz stated he argued to put some criminal investigators into the Sheriff's retirement system because it is a better retirement system than PERS. Now they are asked to increase the Sheriff's retirement system benefits because the criminal investigators are coming into it. He said it puts him into a

logical trap, first one then the other. Mr. Fliner said he was not asking the committee to do that because the investigators came into it. He stated the sheriffs and deputies need less than a million dollars to do this. He said they were asked to bring the investigators into the system. It was to serve the state to have qualified and experienced people out doing the job of solving the crimes and providing assistance to the local communities.

Sen. Vaughn asked Ms. King if the figures were based on what is there now rather than the additional with the investigators coming into the system. Ms. King said the fiscal note deals only with the current system. "The figures that I gave you for the shortfall includes the criminal justice investigators and that bill has passed. The inclusion of the people is not the total reason for the shortfall. It contributes to the shortfall but there would have been a shortfall without those additions. Plus the fact that the beer and the funding source grows at a rate less than the rate of increase in salaries. So that problem is there without the criminal investigators coming in as well."

Closing by Sponsor:

Sen. Rye stated there was always a question of who was getting gored. "A couple of people who weren't at the original hearing are here now. The worthiness of this cause overrides any possible inconvenience to anyone's pocket book. Rep. Pavlovich stated he worked 41 years at his business and the sheriffs would only have to work 20 years. My answer to that is he is not risking his life. Well, running a bar in Butte, perhaps he is. But the general principle is that he is not risking his life. Where the sheriffs are every day. I recognize the irony of this since Sen. Pipinich and I both unsuccessfully argued against increasing cigarette taxes on the floor of the Senate. Now I'm asking to increase the beer tax. I am not crazy about any of these funding sources proposed for this. The point is some funding source has to be found. If you had the choice of working 24 years or 20 years which one would you go for. If you had the choice of not paying into Social Security or paying into Social Security which would you go for. We all know the answer. The problem is the recruitment for sheriff's. We are asking for a level playing field."

EXECUTIVE ACTION ON SB 410

Motion: Sen. Pipinich moved SB 410 BE TABLED.

Discussion: Sen. Fritz asked since only three members were at the hearing if it was possible to propose an amendment to the bill. Sen. Vaughn stated the members left a proxy either for or against the bill. Sen. Fritz said he agreed with the sponsor on

the worthiness of the cause and it needs further discussion. I would like to remove the beer tax and let the House of Representatives haggle on the funding source. I think the switch to the beer tax came at the last hour.

Sen. Fritz said one of his amendments would be to remove the funding source because it appears to be inadequate even as it is and it would give the chance to be argued in the House. The second amendment would be to keep the figure of 2.0834% of salary per year rather than 2.5% which if the members agree to increase their personal contribution to 7.67% would necessitate less than 1% increase and that appears to be acceptable to the sheriffs and peace officers association at this point.

No mention of motion to Table - who?

Vote: The motion to TABLE SB 410 FAILED with Sen. Burnett, Sen. Hockett, Sen. Pipinich and Sen. Swift voting yes.

Motion: Sen. Fritz moved to amend SB 410 (sb041001.agp).

Discussion: Sen. Hockett said he was opposed to the legislation. It is irresponsible legislation. Sen. Swift said he agrees with Sen. Hockett. He said the legislature deals with this kind of legislation every session. Sen. Fritz said his amendment will not standardize the retirement systems.

Vote: The motion to AMEND SB 410 CARRIED UNANIMOUSLY.

Motion: Sen. Fritz moved SB 410 DO PASS AS AMENDED.

Substitute Motion: Sen. Pipinich moved SB 410 DO NOT PASS AS AMENDED.

Discussion: Sen. McClernan asked Ms. King if the bill was actuarially sound. Ms. King said with the change that Sen. Fritz made, the cost that needs to be paid in, to make it actuarial sound would be 1.5% of salaries and with no additional funding it would be actuarially unsound. There's less money that is required, from 6.2% of salaries to 1.5% but it would have to be funded.

Sen. Fritz said if the employees would be willing to raise their own contribution up to the level of the employer then we are down to about .8% of salary falling short of being actuarially sound. He wanted to move the bill to the House to let them argue it.

Vote: The motion SB 410 DO NOT PASS AS AMENDED CARRIED with Sen. Fritz, Sen. Hertel and Sen. Weldon voting no.

ADJOURNMENT

Adjournment: 11:30 a.m.


SENATOR ELEANOR VAUGHN, Chair


DEBORAH STANTON, Secretary

EV/ds

ROLL CALL

SENATE COMMITTEE STATE ADMINISTRATION

DATE 3-29-93

NAME	PRESENT	ABSENT	EXCUSED
1 Sen. Eleanor Vaughn	✓		
Sen. Jeff Weldon	✓		
Sen. Jim Burnett	✓		
Sen. Harry Fritz	✓		
Sen. John Hertel	✓		
Sen. Bob Hockett	✓		
Sen. Henry McClernan	✓		
Sen. Bob Pipinich	✓		
Sen. Bernie Swift	✓		
Sen. Larry Tveit	✓		
David Moss Greg Patesch	✓		

FO8

Attach to each day's minutes

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 29, 1993

MR. PRESIDENT:

We, your committee on State Administration having had under consideration Senate Bill No. 410 (second reading copy -- yellow), respectfully report that Senate Bill No. 410 be amended as follows and as so amended do not pass.

Signed: *Senator Vaughn*
Senator Eleanor Vaughn, Chair

That such amendments read:

1. Title, line 9.

Strike: "INCREASING THE"

Strike: "TAX"

2. Title, line 10.

Strike: "ON BEER TO FUND THE BENEFIT ENHANCEMENTS;"

3. Title, line 11.

Strike: "16-1-306, 16-1-406, 16-1-410,"

4. Page 1, lines 16 through 22.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 3, line 15.

Strike: "2.5%"

Insert: "2.0834%"

6. Page 4, line 21.

Strike: "2.5%"

Insert: "2.0834%"

7. Page 8, line 18 through page 11, line 21.

Strike: sections 7 through 10 in their entirety

Renumber: subsequent section

-END-

ROLL CALL VOTE

SENATE COMMITTEE State Administration BILL NO. SB 410

DATE 3-29-93 TIME 2:20 A.M. P.M.

NAME	YES	NO
Sen. Jim Burnett	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Harry Fritz	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. John Hertel	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Bob Hockett	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Henry McClernan	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Bob Pipinich	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Bernie Swift	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Larry Tveit	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Jeff Weldon	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sen. Eleanor Vaughn	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Melanie Stanton
SECRETARY

CHAIR

MOTION: table SB 410

ROLL CALL VOTE

SENATE COMMITTEE State Administration BILL NO. SB 410

DATE 3-29-03 TIME 2:30 A.M. **P.M.**

NAME	YES	NO
Sen. Jim Burnett	✓	
Sen. Harry Fritz		✓
Sen. John Hertel		✓
Sen. Bob Hockett	✓	
Sen. Henry McClernan	✓	
Sen. Bob Pipinich	✓	
Sen. Bernie Swift	✓	
Sen. Larry Tveit	✓	
Sen. Jeff Weldon		✓
Sen. Eleanor Vaughn	✓	

Dorothy Stanton
SECRETARY

CHAIR

MOTION: DO NOT PASS AS AMENDED

TESTIMONY IN OPPOSITION TO
SB 410

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

On behalf of the Public Employees' Retirement Board, I am here today in opposition to SB 410.

The Board's opposition to the benefit enhancements proposed in this legislation is limited to the proposed increase in the retirement benefit formula from 2.0834% of final salary per year of service to 2.5% of final salary per year of service.

The reason for the Board's opposition to the increase is that they are certain that such an enhancement for Sheriffs' Retirement System will inspire members of the Highway Patrol, Municipal Police and Firefighters' Unified Retirement Systems to request benefit enhancements for their systems.

Currently, highway patrol, police and firefighters receive between 2% and 2.5% of their final salary per year of service when they retire; with the majority receiving 2.5%. However, members of these systems are not also covered by Social Security. The reason that their benefit accrual level is set as high as 2.5% is to make up for the fact that they are not also covered by Social Security.

Members of the Sheriffs' Retirement System, however, are covered by both Social Security and their separate retirement system. Therefore, their current benefit accrual level of 2.0834% of final salary per year of service (while higher than the 1.7857% earned by PERS members) is lower than the 2.5% earned by those other public safety employees who do not have Social Security coverage.

If the benefit enhancement requested in this bill is passed, counties may not withdraw Social Security coverage for these members and therefore their total retirement benefits will be substantially higher than those offered to other public safety professions in this state. The only equitable solution would appear to be an increase in the benefits paid to those other public safety professionals, creating what is known in the retirement business as the "leap frog effect" where groups of employees are in the position of trying to "one-up" another group of employees.

A second problem with this bill, as it has been amended by the Senate Taxation Committee, is that there is no longer a sufficient funding source for the benefit enhancements created. The bill currently proposes to pay the additional contributions required by an increase in the beer tax rate from \$4.30 per barrel to \$5.60 per barrel. The additional \$1.30 per barrel would be ~~\$163,000~~ short in FY 94 and ~~\$219,000~~ short in FY 95.

124,000

And, while the beer tax could be increased further to pay for the needed contributions during the next biennium (from \$4.30 per barrel to a total of \$1.60 per barrel), this is not a sufficient funding source for this purpose. The reason for this is that beer tax revenues are anticipated to have an annual growth of 2.6% while the payroll of the Sheriffs' Retirement System has an average growth of 7.5%. Therefore, the contributions required to fund the benefits will outstrip the growth in revenue after the first biennium.

The result will be a situation similar to that found in the Judges' Retirement System where district court fees have been an insufficient funding source for that system and it is no longer an actuarially sound retirement system. It is absolutely essential that this same situation not be allowed to occur with the Sheriffs' Retirement System which is currently the state's best funded system.

During the past two years, the interim legislative committee on retirement studied the state's public retirement systems and proposed HB 65 which would create a permanent statutory retirement committee which will be well suited to examining both the equitability and funding requirements of all the retirement systems. HB 65 has been passed by the House and will soon be heard in this committee.

The Public Employees' Retirement Board respectfully urges the Senate House State Administration Committee to recommend this bill not pass at this time, but be considered by the permanent committee for its recommendation to the next Legislature. Thank you.

Amendments to Senate Bill No. 410
Second Reading Copy

For the Committee on State Administration

Prepared by Greg Petesch
March 29, 1993

1. Title, line 9.

Strike: "INCREASING THE"

Strike: "TAX"

2. Title, line 10.

Strike: "ON BEER TO FUND THE BENEFIT ENHANCEMENTS;"

3. Title, line 11.

Strike: "16-1-306, 16-1-406, 16-1-410."

4. Page 1, lines 16 through 22.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 3, line 15.

Strike: "2.5%"

Insert: "2.0834%"

6. Page 4, line 21.

Strike: "2.5%"

Insert: "2.0834%"

7. Page 8, line 18 through page 11, line 21.

Strike: sections 7 through 10 in their entirety

Renumber: subsequent section

SAB 410 - Jeff Weldon

- Support Tech. Amendments
- Support No Pass Motion

SB 410

~~FF~~ No - to the bill -

B. Hockett

I do don't pay a 5000

Handwritten signature

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0410, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill increases the formula for benefits paid for service and disability retirement and for survivors benefits under the Sheriffs' Retirement System (SRS); reduces the number of years members must serve prior to regular retirement eligibility; removes age requirements from regular, early and involuntary retirement eligibility; increases the maximum benefit cap from 60% to 70% of final salary; provides for state contributions to the system in the amount of 6.7% of salaries to pay for the benefits; and increases video gambling machine taxes by 1% to pay for the state's contributions.

ASSUMPTIONS:

Sheriffs Retirement System:

1. The FY92 payroll for Sheriffs' Retirement System (SRS) was \$14,189,660. Assuming a continuation of a 7.5% annual growth, the FY94 payroll will be \$16,397,925 and the FY95 payroll will be \$17,627,770.
2. The average retiree retired at age 60.8 with 22 years of service. During the last biennium, the benefit payout per member grew at the rate of 8.8% per year while the number of members receiving benefits grew by 8% per year. Assuming an average of 10 members will retire each year of the next biennium, under current law their benefits would have averaged \$950/month; under proposed law the benefits will average \$1,140/month.
3. State contributions will equal 6.7% of SRS payroll and be deposited quarterly beginning 9/30/93.
4. General fund will pay amounts equal to 2.5% of total benefits paid in the previous calendar year to retirement system for benefit adjustments.

Department of Justice:

5. Total video gaming taxes are estimated to be \$30.106 million and \$32.411 million for FY94 and FY95, respectively. A 1% increase would raise \$2.007 million in FY94 and \$2.161 million in FY95. The current distribution of the tax is 1/3 general fund and 2/3 local governments. Under proposed law, the state's contribution to retirement system would be made first, and the remaining funds would be allocated 1/3 general fund and 2/3 local governments.

FISCAL IMPACT:

(continued)

David Lewis
DAVID LEWIS, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE 2-22-93

David B. Rye
DAVID RYE, PRIMARY SPONSOR
DATE 2-23-93

Fiscal Note for 0, int ccd
5R 412

FISCAL IMPACT:

Sheriffs' Retirement System:

Expenditures:

	FY '94		FY '95	
	Current Law	Proposed Law	Current Law	Proposed Law
Sheriffs' Pension Benefits	\$928,000	\$990,700	\$1,011,535	\$1,199,635
SRS Pension Adjustments	21,540	22,325	23,480	27,400
Total	\$949,540	\$1,013,025	\$1,035,015	\$1,227,035
				Difference
				\$188,100
				3,920
				\$192,020

Revenues:

State Contributions	0	1,098,661	0	1,181,061
General Fund Appropriation	21,540	22,325	23,480	27,400
Investment Earnings	3,975,000	4,008,700	4,293,000	4,327,500
Total	3,996,540	5,129,686	4,316,480	5,535,961
				Difference
				1,181,061
				3,920
				34,500
				1,219,481

Department of Justice (Video Gambling Machine Taxes)

	FY '94		FY '95	
	Current Law	Proposed Law	Current Law	Proposed Law
Revenues:				
General Fund Distribution	10,035,333	10,338,113	10,803,667	11,130,313
Local Govt Distribution	20,070,667	20,676,226	21,607,333	22,260,626
Sheriffs' Retirement System	0	1,098,661	0	1,181,061
Total	30,106,000	32,113,000	32,411,000	34,572,000
				Difference
				326,646
				653,293
				1,181,061
				2,161,000

Net Impact:

General Fund	\$301,995
SRS Pension Trust Fund	\$1,069,661
	\$322,726
	\$1,027,461

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The additional 1% video gambling machine tax collection will result in additional distributions to local governments totalling \$605,559 in FY94 and \$653,293 in FY95 (see above).

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

According to the Public Employees Retirement Division, the proposed increase in contributions to the Sheriffs Retirement System are actuarially sufficient to fund the proposed benefit enhancement (ie. the proposed legislation would not create additional unfunded liabilities). The proposed bill will make the formula for benefits in this system the same as the benefits for highway patrol and higher than benefits for municipal police and firefighters. Since sheriffs also are covered by Social Security, while those other groups are not, legislation to increase benefits for highway patrol, municipal police and firefighters is likely.

SB 410

53rd LEGISLATIVE SESSION

STATE ADMINISTRATION COMMITTEE

I, Senator Treut do hereby submit my
vote to Chairman Vaughn as follows:

BILL NUMBER SB 410

MOTION

Do Pass		
Yes	_____	No _____
Do Not Pass		
Yes	<u>X</u> _____	No _____
Indefinitely Postponed		
Yes	_____	No _____
Tabled		
Yes	<u>X</u> _____	No _____

DATE

Sen Treut
SIGNATURE

TESTIMONY IN OPPOSITION TO
SB 410

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

On behalf of the Public Employees' Retirement Board, I am here today in opposition to SB 410.

The Board's opposition to the benefit enhancements proposed in this legislation is limited to the proposed increase in the retirement benefit formula from 2.0834% of final salary per year of service to 2.5% of final salary per year of service.

The reason for the Board's opposition to the increase is that they are certain that such an enhancement for Sheriffs' Retirement System will inspire members of the Highway Patrol, Municipal Police and Firefighters' Unified Retirement Systems to request benefit enhancements for their systems.

Currently, highway patrol, police and firefighters receive between 2% and 2.5% of their final salary per year of service when they retire; with the majority receiving 2.5%. However, members of these systems are not also covered by Social Security. The reason that their benefit accrual level is set as high as 2.5% is to make up for the fact that they are not also covered by Social Security.

Members of the Sheriffs' Retirement System, however, are covered by both Social Security and their separate retirement system. Therefore, their current benefit accrual level of 2.0834% of final salary per year of service (while higher than the 1.7857% earned by PERS members) is lower than the 2.5% earned by those other public safety employees who do not have Social Security coverage.

If the benefit enhancement requested in this bill is passed, counties may not withdraw Social Security coverage for these members and therefore their total retirement benefits will be substantially higher than those offered to other public safety professions in this state. The only equitable solution would appear to be an increase in the benefits paid to those other public safety professionals, creating what is known in the retirement business as the "leap frog effect" where groups of employees are in the position of trying to "one-up" another group of employees.

A second problem with this bill, as it has been amended by the Senate Taxation Committee, is that there is no longer a sufficient funding source for the benefit enhancements created. The bill currently proposes to pay the additional contributions required by an increase in the beer tax rate from \$4.30 per barrel to \$5.60 per barrel. The additional \$1.30 per barrel would be ~~\$100,000~~ short in FY 94 and ~~\$219,000~~ short in FY 95.

187,000

75,000

And, while the beer tax could be increased further to pay for the needed contributions during the next biennium (from \$4.30 per barrel to a total of \$1.60 per barrel), this is not a sufficient funding source for this purpose. The reason for this is that beer tax revenues are anticipated to have an annual growth of 2.6% while the payroll of the Sheriffs' Retirement System has an average growth of 7.5%. Therefore, the contributions required to fund the benefits will outstrip the growth in revenue after the first biennium.

The result will be a situation similar to that found in the Judges' Retirement System where district court fees have been an insufficient funding source for that system and it is no longer an actuarially sound retirement system. It is absolutely essential that this same situation not be allowed to occur with the Sheriffs' Retirement System which is currently the state's best funded system.

During the past two years, the interim legislative committee on retirement studied the state's public retirement systems and proposed HB 65 which would create a permanent statutory retirement committee which will be well suited to examining both the equitability and funding requirements of all the retirement systems. HB 65 has been passed by the House and will soon be heard in this committee.

The Public Employees' Retirement Board respectfully urges the Senate House State Administration Committee to recommend this bill not pass at this time, but be considered by the permanent committee for its recommendation to the next Legislature. Thank you.

3/29/93
Change in Paragraph - SR 410
I vote to table SR 410 also you can Do not Pass
no amendment

Remainder

DATE 3-29-93

SENATE COMMITTEE ON State Admin.

BILLS BEING HEARD TODAY: SB 410

Name	Representing	Bill No.	Check One	
			Support	Oppose
Steve Knecht	MSPOA MSPOA	SB410	X	
JAMES CASHEN	MSPOA	SB410	X	
Les Osborne	Misselshell County S.D.	SB410	X	
T. Gregory HINDZ	MISSOURI CO Deputies	SB410	X	
Bill Stangher	Callatin Co Sheriff's Dept	SB410	X	
Chuck O'Reilly	Lewis + Clark Co Sheriff's Dept + MSPOA	SB410	X	
Roger Tippet	MT Beer & Wine Wholesalers Assn	SB410		As Amended
Steve Browning	Anheuser Busch Cos.	SB410		As Amended
Gloria Vermanson	Rene Gable with Future	SB410		As Amended
Linda King	PER Board	SB410		✓
MAX CRESS	PERB	SB410		✓
Rep. John Farbruh	HD # 170	SB410		✓
LARRY ALCEY	MITCOIN MACHINE OPERATORS ASSOC.	SB410		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY