

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN ETHEL HARDING**, on February 6, 1995,
at 10:00 AM

ROLL CALL

Members Present:

Sen. Ethel M. Harding, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Mike Foster (R)
Sen. Don Hargrove (R)
Sen. Vivian M. Brooke (D)
Sen. Jeff Weldon (D)

Members Excused: Sen. Bob Pipinich (D)

Members Absent: N/A

Staff Present: David Niss, Legislative Council
Gail Moser, Committee Secretary

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

Committee Business Summary:

Hearing: HB63 HB205 HB298
Executive Action: SB154 HB298 HB205

{Tape: 1; Side: A; Approx. Counter: 51.3}

HEARING ON HB63

Opening Statement by Sponsor:

REP. DORE SCHWINDEN, House District 98, Wolf Point, said HB63 will fund the volunteer firefighters retirement on an actuarial basis. A full participation benefit based on 20 years of service would be set at \$100 per month. HB63 was requested by the PERS Board and is recommended by the interim committee on PERS in an effort to stabilize fluctuations in past benefit payments. Previously, benefits were paid on annual receipt of the 5% insurance premium tax on private insurance fire risk. Since the

amount of that tax varies each year, retirees and survivors were unable to count on any specific benefit payment. **REP. SCHWINDEN** added that without the passage of HB63, benefit payments will cease on June 30, 1995. **REP. SCHWINDEN** said HB63 will stabilize the benefits for the volunteer firefighters without an increased cost to the state or local government employers.

Proponents' Testimony:

Linda King, Administrator of the Public Employees' Retirement Division, handed out written testimony which she essentially read verbatim (**EXHIBIT 1**).

Bob Gilbert, Montana Volunteer Firefighters Association, said members of his Association have expressed concerns regarding the language on page 2, lines 15, 16, and 17 which states "a fractional part of a year may not count toward the service required for participation in the system. To be eligible to receive credit for any particular year, a volunteer firefighter shall serve with a single fire company throughout the entire fiscal year." **Mr. Gilbert** said this language would deny the years eligibility for pension if a volunteer moved from one city to another and joined a new fire company. **Mr. Gilbert** said another concern is the \$25,000 equipment requirement. **Mr. Gilbert** said he would like to propose an amendment that states "a fire company organized after July 1, 1995, that maintains firefighting equipment that is in serviceable condition and is valued at \$25,000 or more." **Mr. Gilbert** said this would ensure that small firefighting companies who now have equipment valued at under \$25,000 and are part of PERS are "grandfathered" in statute, and it would ensure that firefighting companies organized after that date would be required to have \$25,000 worth of equipment. **Mr. Gilbert** said another concern is that there isn't adequate monitoring of who is on the program and who isn't, and he said there have actually have been cases of deceased persons whose pension continued.

James Lofftus, President of the Montana Fire Districts Association, said many areas in the country are having problems getting volunteers and there is a large turnover in volunteer firefighters throughout the state. **Mr. Lofftus** said this pension is one incentive and just a token payment in return for the many services the volunteers provide. **Mr. Lofftus** added that the volunteer firefighters provide a savings to the state each year in reduced fire insurance rates and reducing the need for paid firefighters.

Opponents' Testimony:

Norm Rostocki, Chief of the Marysville Volunteer Fire Department, gave the secretary written testimony that he essentially read verbatim (**EXHIBIT 2**).

Butch Oleson, Chief of the Canyon Ferry Volunteer Fire Department, agreed with Mr. Rostocki's testimony. **Mr. Oleson** said he believes PERS collects 5% from every cabin-owner and land-owner, and he questions where that money goes if firefighters are denied a pension. **Mr. Oleson** added that the \$25,000 equipment requirement is a several-year budget for the smaller companies.

Bill Ikard, Training Officer of the Birdseye Volunteer Fire Department, stated agreement with the previous two opponents. He said his Department's budget is \$3,800 per year, and they have three pieces of equipment. **Mr. Ikard** said they have 15 members who receive the full training each year. He said the \$100 pension is one of the reasons that some members stay with the Fire Department. **Mr. Ikard** believes the \$25,000 equipment requirement is too much. He stated his agreement that not just anybody can be a fire department, but if you qualify for reduced insurance rates, that should be enough.

Terry Olson, York Volunteer Fire Department, testified strongly against the \$25,000 equipment requirement in HB63. **Mr. Olson** stated that just because his fire department does not have \$25,000 worth of equipment they should not be eliminated from recognition that they are a valid fire fighting company. **Mr. Olson** described several situations where their response to calls and aiding other fire departments should ensure the appropriate recognition. **Mr. Olson** also described the equipment owned and used by his department, and stated if the equipment is in such a condition as to provide effective results when in use, a dollar amount should not be placed on the equipment itself. **Mr. Olson** said he also believes the \$25,000 requirement will deter some areas from starting a volunteer fire department.

Jay Verdi, Lincoln Volunteer Fire Department, stated his agreement with the previous opponents. **Mr. Verdi** said his Department does have \$25,000 worth of equipment; therefore, they qualify for the pension. **Mr. Verdi** said he would like to know how much money comes in and where it goes in PERS. **Mr. Verdi** stated his support of the small fire departments in the state of Montana.

Questions From Committee Members and Responses:

SEN. KEN MESAROS asked Linda King what led to the determination of the value of \$25,000. **Linda King** said that PERS did not come up with that amount, it was proposed to PERS by volunteer firefighters. PERS utilized that figure without consideration as to how that figure was determined. **Ms. King** added that there had been further discussions, and adding an inflationary allowance to the original figure (\$2,500), the figure should now be \$12,000 -- not \$25,000. **Ms. King** said the reason the \$25,000 equipment requirement is in HB63 is that it was the Legislature's intention

to give an *incentive* to reach this level of equipment and training, it is not a *requirement*.

SEN. MESAROS asked Linda King how many departments are below the \$25,000 valuation and, if that valuation was lowered, how it would affect the actuary. **Ms. King** said PERS does not track that information. She said the fire companies certify to PERS, on an annual basis, that they meet that determination. **Ms. King** said the important point is to determine what is a *reasonable* amount, and she believes \$12,000 is a reasonable amount.

SEN. MESAROS asked if anyone in the room could answer his question. **Mike Doto, District IV Vice President for Montana State Volunteers**, said he thinks there is a misconception regarding the \$25,000 requirement. He said it is not just "trucks" but every piece of equipment owned by the fire company -- pagers, radios, etc., including the station. **Mr. Rostocki** stated it is "serviceable fire equipment". **CHAIRMAN HARDING** asked Linda King to answer the question whether buildings are included in the \$25,000 requirement. **Linda King** said PERS wouldn't have any idea of the total value of equipment that is owned. She said it is in the statute in order for a fire company's members to get credit in PERS they have to have serviceable equipment valued at "x" dollars, but PERS feels the fire companies themselves determine what that means.

SEN. MACK COLE asked Bob Gilbert to clarify that he is lobbying for ALL the Volunteer Fire Department people. **Mr. Gilbert** said, "All those who are members in the Montana Volunteer Firefighters Association." **Mr. Gilbert** said there are about 400 member fire companies, and a questionnaire regarding the \$25,000 equipment requirement was sent to those 400 companies. He stated that of 320 companies who responded to the questionnaire, only 12 did not agree to raising the amount to \$25,000.

SEN. COLE asked Mr. Gilbert how many volunteer firefighters there are in the state. **Mr. Gilbert** said the numbers range between 9,000 and 12,000.

SEN. COLE asked Mr. Gilbert how many companies are above and how many below the \$25,000 requirement. **Mr. Gilbert** said he understands the concern behind the \$25,000, but said perhaps an inflation factor should be built into the original amount of \$2,500 or perhaps a change in the way the size of a volunteer fire district is established to increase the tax base of district.

SEN. VIVIAN BROOKE asked Norm Rostocki to clarify information about the company that inspects their equipment and whether that inspection is required to be considered a *legitimate* volunteer fire department. **Mr. Rostocki** said it is not a requirement. His Department existed for 25 years with an army surplus truck and a hall to park it in. The Insurance Service Organization (ISO) required a stable funding source, so by petition, they created

their own fire district. Once that taxing mechanism was in place, they became, to ISO, a Fire Department.

SEN. BROOKE said she understands the proponents are attempting to guarantee the equipment is serviceable, well-maintained, and operational and asked if some type of inspection certification, could serve as the criteria rather than an arbitrary valuation of \$25,000. **Mr. Rostocki** agreed that would be a better proposal than either a dollar amount or "grandfathering."

SEN. BROOKE asked Linda King about Mr. Olson's comment regarding the assessment on protected homeowners that goes directly to PERS. **Ms. King** explained the funding on PERS by stating that 5% of the insurance premium tax fund is earmarked to go into PERS to pay for these benefits. The state collects its taxes from insurance companies through premium taxes. It was determined that having better equipped and trained fire companies was a benefit to citizens because their insurance premium would go down. **Ms. King** said it is state money involved, and if it didn't go as an earmarked revenue source to PERS, it would go into the General Fund.

SEN. DON HARGROVE asked Linda King if there is anything in PERS or other statute that requires a standard of some sort that could be set by the industry itself. **Ms. King** said it is the Legislature that set the standard and PERS is not involved in what the standard should be. She said it is possible that the ISO standard could be applied, but she is unsure as to whether all companies could get the appropriate certification.

SEN. MIKE FOSTER asked Linda King if she believed the \$25,000 requirement includes the building. **Ms. King** she had not considered that issue. She added, however, she believes if the building is necessary to house and protect the equipment, that would be a reasonable assumption.

SEN. FOSTER asked Linda King to address which method is used in determining the value: original cost depreciated, purchase price, or current market value. **Ms. King** said it is up to the individual companies to certify to PERS that they meet the standard, and those standards have been set in law or rule on what the accounting mechanism would be. **SEN. FOSTER** commented it appears "wide open."

SEN. FOSTER asked Norm Rostocki and Terry Olson if the requirement was changed to \$12,000 and the building could be included, would they meet the standard. **Both men** stated they would then meet the standard.

SEN. JEFF WELDON asked Linda King, if the fiscal note is built with the \$25,000 threshold and the Long Range Effects indicate that the 5% insurance premium tax covers the benefit of \$100, what would the impact be if the equipment requirement were reduced to \$12,000. **Ms. King** said there is no impact at all

regardless of the amount of the equipment requirement. PERS assumes the companies will meet "reasonable expectations" of the industry and there will be no change in the number of companies covered. **Ms. King** added that not all volunteer fire companies currently report to PERS, even at the \$2,500 level.

Closing by Sponsor:

REP. SCHWINDEN said there are some technical amendments which will clean up some of the language in HB63. **REP. SCHWINDEN** said he believes agreement can be reached regarding the concerns expressed by the opponents about the equipment requirements.

{Tape: 1; Side: B; Approx. Counter: 49.}

HEARING ON HB205

Opening Statement by Sponsor:

REP. JOHN JOHNSON, House District 2, Glendive, said the Committee on Public Employee Retirement Systems established in the 1993 Legislative Session is required to report to the legislature on its fiscal and policy implications of each retirement proposal that is reviewed and to make recommendations for legislative action. **REP. JOHNSON** said HB205 is the vehicle for those Committee recommendations which affect clarifying the Teachers' Retirement System and added there is no fiscal impact in HB205. **REP. JOHNSON** explained that the 1993 Legislative Session adopted provisions for dividing retirement benefits in cases of divorce, and that process is called the "family law order" or FLO. However, due to an oversight in the coordination instructions contained in the bill, the final language was not codified under TRS in title 19. HB205 will clarify that the TRS Board can approve an FLO. **REP. JOHNSON** said over the past 15 years, the definition of compensation that is included in the calculation of retirement benefits has been amended many times in a continuing effort to limit members' ability to inflate their final years salary, resulting in larger but under-funded retirement benefits. HB205 will clarify the average and final compensation and the current 10% cap on compensation used in calculation. HB205 will also address a change in definition of taxable income. **REP. JOHNSON** said there are other housekeeping proposals that are required to comply with and take advantage of federal laws and regulations.

Proponents' Testimony:

David Senn, Executive Director of the Teachers Retirement System, handed out written testimony (EXHIBIT 3). Mr. Senn expanded somewhat on various areas of his written testimony, but he essentially covered the issues as described in Exhibit 3.

Don Waldron, representing the Montana Rural Education Association, said his Association fully supports HB205. Mr. Waldron said HB205 was addressed in their bulletin which goes to all county superintendents, and there has been no feedback, so his Association assumes county superintendents are in agreement as well.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. WELDON asked David Senn for clarification that plans which existed under 19-20-207 have all been transferred to the company that won the RFP. Mr. Senn said that is correct. He said TRS was paying 8% on those accounts, and the winning company was able to pay 8¼% guaranteed for two years.

SEN. BROOKE asked David Senn, regarding the Family Law Order, why TRS had not been included in Senator Bartlett's bill last session. Mr. Senn said he had drafted the original language for that bill, and he explained that last session, PERS had a large re-codification of their entire act. It was that re-codification that was to be coordinated with the Family Law Order bill, but due to a missed coordination instruction, when it came time to codify it, everything ended up under PERS Board instead of TRS Board. Mr. Senn said TRS is processing Family Law Orders currently, and said they were not even aware there was a problem until mid-December.

Closing by Sponsor:

REP. JOHNSON said HB205 simply clarifies a number of issues, and he pointed out the various effective dates in the different sections of HB205.

CHAIRMAN HARDING closed the Hearing on HB205.

HEARING ON HB298Opening Statement by Sponsor:

REP. PATRICK GALVIN, House District 48, Great Falls, said HB298 will increase the number of hours a PERS retiree may work without penalty. Currently, PERS allows that benefits of a retired PERS member under age 65 will temporarily be reduced one dollar for every dollar earned after the member works 600 hours in a calendar year if working as a public employee in a position covered by PERS. A retiree age 65 or more is either subject to the 600 hour limitation or may earn no more than 50% of their annual retirement benefit before receiving the reduction of their retirement benefit. **REP. GALVIN** said the limitation imposed is the one which provides the most compensation to the retiree. Benefits are not adjusted for inflation, so over age 65, members are frozen in how much money they can earn before the retirement benefit is reduced. **REP. GALVIN** added that a position vacated by the retirement of a public employee may be filled by a new employee at a lesser salary, for a cost savings to the government employer, however, the employer also loses a retiree's experience. HB298 affects only PERS, no other statewide public retirement system can pose similar work limitations on retirees. **REP. GALVIN** said due to requests by many retirees, he is willing to accept amendments which will increase the number of hours.

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association, said he is representing some retirees who contacted him and Representative Galvin, and he said they worked on this bill during the entire interim. **Mr. Schneider** said the language comes from Linda King of PERS for people age 65 and over. The original language stated people over 65 were limited to 600 hours or 50% of their current annual benefit. The language now in HB298 for people over 65 would limit them based on the salary they were earning when they retired and would be adjusted annually for inflation.

Mr. Schneider said the increase from 600 to 640 hours was requested by Senator Beck due to some issues raised by bus drivers in his district. **Mr. Schneider** said the section on the last page regarding members age 70½ or more was requested by Representative Driscoll who was on the Committee, and that provision evolved from ARISA rules to ensure the state is consistent with federal rules.

Don Waldron, representing Montana Rural Education Association, gave an example of the importance of being able to work after retirement for purposes of mental health and having the feeling of being involved. **Mr. Waldron** supports an increase in the hours limitation.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. FOSTER asked Tom Schneider to clarify that page 2, line 3 states that over age 70½, members can work unlimited hours without losing retirement benefits. **Mr. Schneider** said that is correct, and he added that provision comes out of ARISA on the private law that was passed by Congress. **Mr. Schneider** said there has only been one person who worked after age 70½, so it was not a major issue.

CHAIRMAN HARDING closed the Hearing on HB298

EXECUTIVE ACTION ON SB154

Motion: **SEN. FOSTER** moved that SB154 DO PASS.

Discussion: **SEN. FOSTER** feels certain that his constituent, Mary Doggett, would not have brought her concerns about the Federations to him without good cause. He said he believes the Federations who testified at the Hearing for SB154 are those Federations who do treat their members fairly and equitably. However, there have been problems in some other Federations. **SEN. FOSTER** said the concern is that there is no oversight regarding the state money going to the Federations. Regarding the federal money the Federations get, the Library Commission has explicit authority to ensure it is handled equitably and fairly. All SB154 actually does is clarify the intent of the original legislation that has apparently eroded over time. **SEN. FOSTER** stated the Federations that currently are working well will notice absolutely no difference. It is the Federations who have perhaps taken some advantage of their small members who will see a difference. **SEN. FOSTER** said SB154 is not the end of the world or a plot to overthrow the Federations -- it is simply making clear what was originally intended.

SEN. COLE said he believes SB154 will help the libraries rather than harm them.

SEN. HARGROVE said he believes there should have been some proponents from the grassroots level representing those who must be unhappy with the current system. **SEN. HARGROVE** said he would prefer to leave things as they are now.

SEN. BROOKE said she believes the Federations are large enough that resolution to problems could be achieved within the Federation. **SEN. BROOKE** agreed with Senator Hargrove regarding decision making being kept more at the local level. **SEN. BROOKE** added that the issue of the money not being disbursed in a timely manner should be addressed as well.

SEN. MESAROS said Henry McClernan's comments during the Hearing on SB154 seemed quite appropriate, and he agrees SB154 clarifies the original intent. **SEN. MESAROS** said the Commission should be supported to administrate programs fairly throughout the state as a whole.

SEN. WELDON said he had heard of this conflict in the library community while working on the Governor's Task Force, and he believes it has to do with power and who has the power. He said he doesn't see any reason to allow the Commission budgetary control over the Federations, and he would be inclined to leave the power de-centralized in this particular instance.

CHAIRMAN HARDING said she received a message from Ann Hauptman, the Chairman of the State Library Commission which said this proposed statute has never been voted upon or discussed in a Commission meeting, and it was hoped that this problem could be handled through administrative rule. **CHAIRMAN HARDING** said since it appears that only one particular incident is involved, she will oppose SB154, but she added that she would vote to have it taken to the Senate floor for discussion. **CHAIRMAN HARDING** asked David Niss if the problem could be corrected through administrative rule or if all Federations need to be affected. **Mr. Niss** said there is existing law that allows the Commission to adopt rules governing distribution of state funds. He said he doesn't believe there is anything in any other section of law that would be inconsistent with a rule adopted by the Commission allowing them to require approval of plans as a condition of distribution of the money.

CHAIRMAN HARDING asked Senator Foster what he felt about the situation being addressed through rules. **SEN. FOSTER** said if SB154 fails, that would be the option available.

{Tape: 2; Side: A; Approx. Counter: 16.}

SEN. FOSTER commented that just because something is working fine in a particular Federation today, it can't be assumed it is working fine for everyone. **SEN. FOSTER** said the problem is that in Federations where it is not working fine, there is no recourse. The Federation decides the funding allocation, and there is no oversight or recourse. The smaller libraries that may take a hit can complain to the Commission, but the Commission is of no help. The issue is being accountable for state money, and the Federations need oversight just like any state program.

Vote: The **MOTION FAILED 5-3** on roll call vote.

(**Senator Pipinich** was not present during this roll call vote, but on 02/06/95 at 4:00 PM, he notified the secretary that his vote should be counted "NO".)

EXECUTIVE ACTION ON HB298

Motion: SEN. BROOKE moved that HB298 BE CONCURRED IN.

Discussion: David Senn was asked to comment on the issue of earnings limitations for retirees age 70½ or more. Mr. Senn explained the difference between private plans and public plans. He said that most private plans are simply based on contributions, and once age 70½ is reached, you must begin drawing from that plan and paying ordinary income taxes. He said, however, that public plans are based on years of service and final average salary, and contributions do not have much effect on the calculation of the benefit. Mr. Senn said the 600 or 640 hours is a way to control people from retiring and going back to work full time. It doesn't have anything to do with the federal tax law, and it's a matter of state policy to control retirees returning to work. Mr. Senn added this is only a limit on positions covered under PERS and said there is a similar provision for teachers. Mr. Senn said the 70½ age issue really isn't related to this PERS proposal at all.

SEN. BROOKE asked Mr. Senn to clarify that the age 70½ issue has more to do with federal requirements to start drawing on a pension (for tax purposes), rather than having to do with hours worked. Mr. Senn said that is correct.

SEN. WELDON asked David Senn who would benefit and who would be harmed if the sentence on page 2, line 3 -- "this section does not apply to retired members age 70½" were stricken. Mr. Senn said it would not really affect anybody. SEN. WELDON said since it wouldn't make very much difference if that language was left in or stricken, it should be left in.

Vote: The MOTION CARRIED UNANIMOUSLY on oral vote.
SEN. BECK will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB205

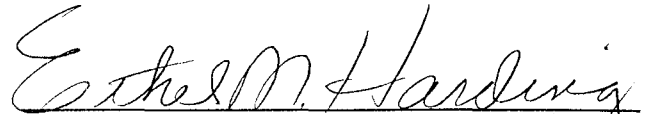
Motion/Vote: SEN. BROOKE moved that HB205 BE CONCURRED IN.
The MOTION CARRIED UNANIMOUSLY on oral vote.
SEN. BROOKE will carry the bill on the Senate floor.

ADJOURNMENT

Adjournment: 11:50 AM

02/06/95 at 4:00 PM, **Senator Pipinich** notified the Secretary that his votes should be counted as follows:

SB154	DO PASS	No
HB298	BE CONCURRED IN	Yes
HB205	BE CONCURRED IN	Yes


ETHEL M. HARDING, Chairman


GAIL MOSER, Secretary

EMH/gem

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE _____

Mon 02-06-95

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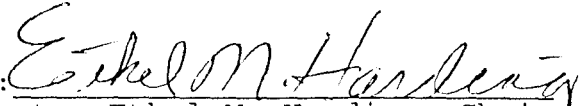
SENATE STANDING COMMITTEE REPORT


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
MR. PRESIDENT:


We, your committee on State Administration having had under consideration HB 298 (third reading copy -- blue), respectfully report that HB 298 be concurred in.

Signed:


Senator Ethel M. Harding, Chair

 Amd. Coord.

 Sec. of Senate


Senator Carrying Bill

311251SC.SRF

SENATE STANDING COMMITTEE REPORT

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MR. PRESIDENT:

We, your committee on State Administration having had under consideration HB 205 (third reading copy -- blue), respectfully report that HB 205 be concurred in.

Signed: Ethel M. Harding
Senator Ethel M. Harding, Chair

JA Amd. Coord.
JA Sec. of Senate

BROOKE
Senator Carrying Bill

311248SC.SRF

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE
ROLL CALL VOTE

DATE Mon 02-06-95 BILL NO. SB154 NUMBER _____

MOTION: Sen Foster Moved That SB154 Do Pass

Failed 44

[illegible]

TESTIMONY OF THE
PUBLIC EMPLOYEES' RETIREMENT BOARD

HB 63

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

On behalf of the Public Employees' Retirement Board, I request your positive consideration of HB 63 which will provide a stable level of retirement, disability and survivor's benefits to several hundred retiree's who have volunteered their time and expertise in fighting fires and providing emergency medical care in their rural communities.

Prior to 1991, benefits were recalculated annually for eligible benefit recipients and could (and did) fluctuate greatly from year to year. One year a retiree might receive \$70/month and the next year \$200 and the next year \$50. The reason for the previous fluctuation is that there was a fluctuating revenue source, fluctuating investment returns, and fluctuating numbers of persons receiving benefits. Without any idea of how many persons would be receiving benefits in the future, there was no way to set a fixed amount for benefits.

In 1991, monthly benefits were set \$120/month for full-participation benefits (for those with at least 20 years of service) on an interim basis until such time as an actuarial valuation could be conducted to determine what stable level of benefits the system could guarantee given its current funding source. Those \$120/month benefits were originally scheduled to terminate on June 30, 1993.

The actuarial valuation was not able to be completed in time for the 1993 legislature due to problems in identifying all fire companies and potentially eligible volunteer firefighters across the state. Because of reporting inaccuracies which are inherent in volunteer organizations, more time was required to determine the correct number of individuals and fire companies to whom benefits were promised. In 1993, the Legislature extended the interim provisions until June 30, 1995.

The actuarial valuation conducted determined that the current funding available -- 5% of insurance premium taxes on certain fire risks -- would be sufficient to fund a fixed benefit of \$100/month for those with 20 years of service. Alternatively, increased contributions would be required -- a total of 6% of insurance premium taxes on those certain fire risks -- would be required to continue the interim benefit of \$120/month. Because the legislative intent of the original 1991 legislation was to determine a stable benefit level within current funding constraints, this bill proposes a permanent full participation benefit of \$100/month.

Additional changes have been proposed which essentially update the language found in these statutes which have remained virtually as they were written back in 1935. The resulting statutes should be much more readable and understandable and will be in compliance with current state and federal laws.

On behalf of the Public Employees' Retirement Board, I urge your favorable consideration of this bill and I will be please to answer any of your questions about specific aspects of this bill.

Madam Chairman and Members of the Committee;

For the record, my name is Norm Rostocki and I am chief of the Marysville Volunteer Fire Department.

I am here to oppose HB 63 as it is currently written. As I understand it, the purpose of the bill was to bring the requirements for qualifying for Volunteer Fire Department Pension benefits up to date. That is why the bill is at the request of the Retirement Division. Input was sought by the Retirement Division for updating the requirements from the Volunteer Firefighters Association. This organization suggested the language that any department must have \$25,000 worth of serviceable firefighting equipment in order to qualify for pension benefits. This was increased from the original value of \$2,500 worth of equipment.

The Volunteer Association does not represent all the volunteer fire districts in Montana, including mine. There are many districts around Montana that do not have \$25,000 worth of firefighting equipment but still provide fire protection for their constituents. For example, in my district, I have a 1945 pumper that still works fine, a 1957 Kenworth to haul water and a 1976 Dodge quick response truck. I am sure that the value of the 1945 and 1957 trucks would be counted at near zero because no blue book even goes back that far. The Dodge is not worth \$25,000. However, a nationally recognized independent insurance rating organization, ISO out of Denver, has physically been to my department and looked at my equipment. It was their opinion that the equipment was adequate to reduce the fire insurance premiums in our district. However, HB63 language states that the firefighters in my district can't qualify for pension benefits because our equipment does not meet some arbitrary standard suggested by an organization that is made up of districts with large tax bases. I don't belong to the Volunteer Firefighters Association because my budget is \$2,300 per year. I need every single dollar available to try to buy better equipment for my department. And I certainly couldn't justify spending funds to go to the Firefighter's Convention where these suggestions were adopted.

One of the few incentives we have to get our firefighters to train on a regular basis is to offer the benefits of a pension after 20 years. The current law provides for a year's worth of pension eligibility for a firefighter if 30 hours of training is undertaken during the year. The chief certifies that the training was done. I know that this is an incentive for my department. It benefits everyone in the district when firefighters train because when you call 911 you expect that those who are responding know what to do. If this bill passes as its written, you can count on fewer people training in the smallest departments where they need the training the most.

I would hope that this committee and the Legislature will not pass this bill in its present form because the message you are sending the smallest departments spread around the state is they aren't big enough to be counted. The firefighters in my district are at the end of the 911 line just like the larger districts in this state. Please amend this bill to accommodate the smaller districts in the state. Remember, especially those of you from rural areas; the departments you are cutting out of the pension plan may be your own. Thank you for your time.

TESTIMONY
HOUSE BILL 205
TEACHERS' RETIREMENT SYSTEM
PRESENTED BY DAVID L. SENN

Purpose

General house keeping amendments to clarify provisions of the TRS act and to comply with requirements of the Internal Revenue Code. This act will not create any new benefit features or unfunded liabilities. There is no administrative or actuarial fiscal impact.

Background

There are eleven sections in this bill clarifying different provisions of the Teachers' Retirement System. The following is a brief history of the major provisions of this act.

The 1993 legislature adopted provisions for dividing retirement benefits in case of divorce. This process is called a Family Law Order (FLO). This legislation was introduced at the request of the Teachers' and Public Employees' Retirement Boards. However, due to an oversight in a coordination instruction contained in the bill the final language was not codified under the Teachers' Retirement System, Title 19, Chapter 20. Since the legislature intended that family law orders apply to TRS, these amendments are necessary to clarify that the TRS board can approve a FLO.

Over the past 15 years the legislature has amended the definition of compensation that may be included in the calculation of retirement benefits many times in a continuing effort to limit members ability to inflate their final year's salaries. Inflated salaries result in larger but under funded retirement benefits.

Also, the continuing changes in the definition of taxable income has caused members and school clerks to question what compensation is reportable to TRS. Therefore, this legislation includes a clarification of what is reportable to TRS as earned compensation.

Included in this legislation are several house keeping proposals, and amendments that are required to comply with and/or to take advantage of federal laws and regulations. i.e. defining a quorum, clarifying membership for county superintendents, limiting compensation as required under the IRS code, authorizing transfers or rollovers as allow by the IRS, and repealing the requirement that the board offer a tax-deferred annuity program.

Section By Section Description

Section 1. 19-2-907 Alternate payees -- family law orders. This amendment will remove the reference to TRS (chapter 20) from the Public Employees' Retirement statutes covering family law orders. Section 9 will enact family law orders under the Teachers' Retirement System. Without these amendments family law orders may not be approved by the Teachers' Retirement Board.

Section 2. 19-20-101 (5)(b) average final compensation. This is a clarification of the calculation of the 10% cap and does not change any current calculations made by the System. The cap is calculated as a rolling cap whereby each year used in the calculation of average final compensation cannot exceed the previous year's compensation by more than 10%. However, members have the option to use earnings in excess of the 10% cap in the calculation of benefits if they and their employer contribute the actuarial cost to fund the increased benefits.

When the cap was adopted the statement of intent said; "It is the intent of the legislature to provide equitable retirement benefits to all members of the Teachers' Retirement System based on their normal service and salary. The legislature further intends to limit the effect on the retirement system of isolated salary increases received by selected individuals through promotions or one-time salary enhancements during their final years of employment."

The Teachers' Retirement Board was directed to adopt administrative rules to allow for exemption to the cap. Under the administrative rules adopted by the Board, increases that result from collective bargaining or increases granted to all similarly situated employees, summer employment, retirees returning to employment, or a change in employers, are exempt from the cap.

Section 2. 19-20-101 (8) Earned compensation. This amendment clarifies that the member's gross compensation, before any tax-deferred deductions, is reportable to TRS. The "value of housing" which is included in the current definition has been dropped because it is simply not possible to verify if housing is reported when a member is provided a house or the value that should be reported.

However, legal counsel has advised us that members with housing currently reported would have a contractual right to that benefit requiring that the value continue to be reported.

We also find that many employers are not aware that housing should be reported, or report housing only in the final three years, and we fear that if we actively pursued it's reporting we could increase the retirement costs for many small school districts.

Section 3. 19-20-203 Officers and employees of retirement board. A quorum of the Teachers' Retirement Board is not defined under the Teachers' Retirement Act. The board is made up of six members appointed by the governor, one of which must be the Superintendent of Public Instruction. This amendment will define a quorum as three members (the same as the PERS board).

Section 4. 19-20-302 Active membership. This amendment is necessary because current law leaves open many questions regarding retirement system membership for elected county superintendents. When the Teachers' Retirement System was enacted in 1937, county superintendents were required to become members. However, in 1971 the definition of a teacher under the School Laws of Montana was amended and "county superintendent" was deleted from the definition.

Currently we find county superintendents under PERS, TRS or neither retirement system. This proposal will give county superintendents elected to office after July 1, 1995, the option to elect membership under TRS, but not PERS. The current retirement status of county superintendents elected to office before July 1, 1995, will remain unchanged. Therefore, this section must be effective July 1, 1995.

Section 5. 19-20-602 Annuity savings fund -- member's contribution. Amendment to clean up reference to earned compensation and average final compensation as amended in Section 2.

Section 6. 19-20-706 Exemption from taxation and legal process. Amendment necessary to strike the reference to the public employees' retirement statutes, 19-2-902 regarding family law orders. Section 9 will enact family law orders under TRS.

Section 7. 19-20-904 Adjustment of allowance. Current law refers to adjusting the disability recipient's "pension" and "annuity", if a recipient has compensation in excess of the amount they are allowed to earn. As benefits are calculated today these terms mean retirement allowance. This amendment is necessary to clarify that the disability recipient's retirement allowance will be adjusted if they receive compensation in excess of the amount they are allowed to earn.

Disability retirement benefits are reduced if the member's earnings plus the member's disability benefit exceed their average final compensation. For example a member receiving a disability benefit of \$5,000 and an average final compensation of \$20,000 would be eligible to earn up to \$15,000 without loss of benefits.

This proposal will also grant the board discretion to require an annual earnings statements. Currently members receiving a disability allowance must annually submit an earnings statement

even if it is obvious that they can no longer be gainfully employed. Failure to submit an earnings statement could result in the cancellation of retirement benefits. Members who obviously cannot be gainfully employed should not be required to continue to submit an annual statement.

Section 8. COMPENSATION LIMIT - (IRS REQUIREMENT). Federal law Section 401(a)(17), limits the amount of compensation that may be reported to the retirement system and thus used in the calculation of retirement benefits. For 1995 this limit is \$150,000.00 and will be adjusted for inflation in the future. Currently no member of TRS is in danger of exceeding this limit.

All retirement plans are required to include Section 401(a)(17) of the Internal Revenue Code in their plan document. This amendment was prepared by the system's actuary to be in compliance with the Code and will grandfather members of TRS prior to July 1, 1995, to no compensation limits. To comply with the federal regulations, this Section must be effective July 1, 1995.

If this provision is not enacted this year the TRS could lose it's IRS qualified status. If a plan loses it's qualified status, the investment earnings of the plan will be subject to taxation and accrued benefits will be taxable to the members.

Section 9. ALTERNATE PAYEE -- FAMILY LAW ORDERS. This amendment was prepared by the legislative council so that the Family Law Orders could be codified under the Teachers' Retirement Act.

Section 10. ROLLOVER OR TRANSFER OF PUBLIC EMPLOYEE ACCUMULATED CONTRIBUTIONS. This amendment will allow members who are eligible to purchase additional service to rollover contributions from another qualified public retirement plan into the Teachers' Retirement System. Members will then be able to retain the tax-deferred status on contributions and continue to apply these dollars to their future retirement.

Section 11. REPEAL 19-20-207. The section 19-20-207, MCA., requires that the Board establish a Tax-Deferred Annuity program. When enacted, the TRS was about the only option available to members wishing to use a tax-deferred annuity to supplement their retirement income. In 1989 the Board recognized that these programs had become a thriving private sector industry in which we were in direct competition. Therefore, the Board, through a Request For Proposal contracted with the Variable Annuity Life Insurance Company to take over our annuity accounts. In this legislative session the board is asking the legislature to repeal 19-20-207, MCA.

NAME Bill Thart
ADDRESS 5980 Redwing Helena MT
HOME PHONE 443 5255 WORK PHONE 449-1333
REPRESENTING Birdseye VFD
APPEARING ON WHICH PROPOSAL? HB 63
DO YOU: SUPPORT _____ OPPOSE _____ ☒ AMEND _____

COMMENTS:

The \$25,000 provision in section
3 3b is to High - it works against
proper training in small
fire departments
The provision should be eliminated
- if a fire company is rated by
the fire underwriters it should
qualify for pension rights

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Larry E. Hornby

ADDRESS 3464 Keir Ln

HOME PHONE 425 3240 WORK PHONE 444 0784

REPRESENTING Lake Side Fire Service Area VFD

APPEARING ON WHICH PROPOSAL? 4B 63

DO YOU: SUPPORT _____ OPPOSE X AMEND _____

COMMENTS:

against \$25000
will ~~not~~ decrease incentive of ~~state~~ VFD.
dropping of pensions loses incentive
this dept. never received any info or survey concerning
this bill

it's hard for smaller dept to achieve required amounts
state - keep incentive until info is put to ALL Dept.
and reduce inc.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Terry J. Olson
ADDRESS 8040 York Road
HOME PHONE 227-8483 WORK PHONE 475-3208
REPRESENTING York V.F.D.
APPEARING ON WHICH PROPOSAL? HB 63
DO YOU: SUPPORT _____ OPPOSE X AMEND _____

COMMENTS:

(New) Section 3 Part 3 ~~b~~ The amount of \$25,000
or more of firefighting equipment ~~will~~ removes
the York V.F.D. members from the retirement fund.
Thus, the York V.F.D. would then for all purposes
not be "known" as a Fire Department. The
Lives and Property that this department has
saved will prove this "not" to be true.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Jay Verdi
ADDRESS P.O. Box 399 Lincoln, MT 59639
HOME PHONE 362-4512 WORK PHONE _____
REPRESENTING Lincoln Vol. Fire Co.
APPEARING ON WHICH PROPOSAL? H.B. 63
DO YOU: SUPPORT _____ OPPOSE ✓ AMEND _____

COMMENTS:

We as Vol. Give up enough Time & money
without the state saying if you Do not have
\$25000⁰⁰ worth of equipment you do not qualify for
Retirement We need support not petty Harassment.
The Vol Fire Association Did not Realize how
many Departments have Less than \$25,000⁰⁰ worth of
equipment. I do not believe They Represent the
majority of Vol. Fire Depts.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

NAME Bitch Oleson
ADDRESS 8050 Canyon Ferry JFIS Rd
HOME PHONE 475-3093 WORK PHONE 475-3093
REPRESENTING Canyon Ferry VFD (CHIEF)
APPEARING ON WHICH PROPOSAL? 63
DO YOU: SUPPORT _____ OPPOSE _____ AMEND ☒

COMMENTS:

2500 to 25,000 VALUE of EQUIPMENT
NOMENCLATURE of IDENTIFYING VFD'S
1-12 FIRE SERVICE AREA
FIRE DISTRICT
Volunteer FIRE Dept
FIRE COMPANY
Producing Benefits 120% to 100%
IN

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-6-95 ^{Monday}

SENATE COMMITTEE ON STATE ADMINISTRATION

BILLS BEING HEARD, TODAY: HB 63 / HB 205 / HB 228

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Butch Olson	CANYON FERRY VFD	63		✓
Larry Harnby	Lakeside VFD	63		✓
Jay Verch	Lin Vol. Fire Co	63		✓
Terry Olson	York VFD	63		✓
Tom Schneider	MPFA	298	✓	
Bill Shand	Birds Eye VFD	63		✓
Norm Rostoker	Marysville VFD	HB 63		✓
Lyle P. Nagel	Simms VFD	#1363	✓	
Steve Jones	CANYON CREEK VFD	63		✓
Ralph Elrod	Wolf Creek VFD	63		✓
Jack Fisher	SILVER BOW FIRE CO	63	✓	
Bob Hillbert	MT Volunteer Firefighters ASSN	63	✓	
JAMES A. LOFFTUS	MT FIRE DIST ASSN	63	✓	
Mike Dato	MT Vol Fire ASS DIST 10 VFA	63	✓	
Linda King	PERD	63	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

$\langle \square \rangle$ [illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY