

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 7, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. in Room 317 of the State Capitol on the above date.

ROLL CALL: Sixteen members present with Rep. Janet Moore absent and Rep. Pistoria excused for another meeting.

CONSIDERATION OF SENATE BILL NO. 115: Sen. Dick Manning, District #18, sponsor of the bill, said it would remove the mandatory and compulsory retirement from the statutes. There is no cost to this bill and perhaps there could be a savings. Most people retire before the mandatory age anyway. Failure to remove this from the statutes would place it in opposition to the Court's decision.

PROPOSERS: Larry Natschein, Administrator of the Public Employees' Retirement Board, said it is a matter of having the statutes reflect what the Supreme Court said on the question of mandatory retirement. His prepared testimony is attached as Exhibit #1.

OPPOSERS: There were no opposers.

There being no questions from the Committee, Sen. Manning closed without further comment.

CONSIDERATION OF SENATE BILL NO. 78: Sen. Larry Tveit, Senate District #11, sponsor, said this bill would exempt fire department relief associations with annual receipts less than \$20,000 from state audit.

PROPOSERS: Art Korn, Secretary-Treasurer of the Montana State Firemen's Association, told the Committee that they thought this had been accomplished at the 1983 Legislature, however, this was not so. He cited the case of Froid, with a budget of \$14,000, having to pay \$600 plus for their audit. They were asking that it carry across the board to include the relief associations in third class cities, however, the larger cities should be audited.

Rep. Ray Harbin, proponent of the bill, said he had been the manager of the fire department pension fund for 15 years. Their income was \$3500 and they paid \$500 for their audit.

Ross Fitzgerald, Montana Volunteer Firemen's Association, spoke in favor of the bill. His prepared testimony is attached as Exhibit #2.

OPPOSERS: There were no opposers to SB 78.

DISCUSSION OF SENATE BILL NO. 78: Rep. Jenkins asked a question concerning the language on page 3, line 21, to which Mr. Korn replied that if an association's budget reaches \$18-19,000, and they feel they should have an audit, they may do so, and the State is willing to conduct that audit.

In closing, Sen. Tveit said he thought it was a good bill that clears up some of the language in the statutes.

CONSIDERATION OF SENATE BILL NO. 13: Sen. Pete Story, sponsor, said that this bill was asked for and introduced at the request of the Administrative Code Committee. He said that page 3, line 6, clarifies that "agency" does not include a school district unit of local government, or any other political subdivision of the state. This was brought about by the interpretation of a local district court that said schools were to follow the Administrative Procedures Act. This interpretation would put a burden on all local governments and districts. It is necessary for the state agencies but we should not expect the local governments to conform to this.

PROPOSERS: There were no proponents.

OPPOSERS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 13: Chairman Sales asked what type of problem prompted the case that was taken to court. Chip Erdmann, Montana School Board Association, said in the case of Taylor v. School District, concerning the termination of a tenured teacher, the court determined that the MAPA applied to local county superintendents of schools. A subsequent case that went to court asked that they reverse themselves. The court again came out with that decision. However, the State Superintendent of Public Instruction has promulgated rules that differ from the MAPA and puts the school districts in a spot. Mr. Erdmann explained the difference in the procedures between the MAPA and the Superintendent's rules. They are very similar and the Superintendent's rules probably give more rights to the parties. There are above five appeals that can be taken.

Mr. Erdmann also explained the process of terminating a tenured teacher such as notification, they then request a hearing before the school board, etc., and on through the process. It is a cumbersome system and in some cases has taken 5-7 years to settle. They are currently questioning which rules they should follow. This bill would add some certainty to the area. No matter which set of rules they follow, they are leaving themselves open to a challenge.

In closing, Sen. Story said there is the possibility that whichever set of rules are used, the individual could sue and say that the other set should have been followed. That is the reason for this bill. He asked that Gary Spaeth carry the bill on the

floor as he is familiar with the bill.

While waiting for Sen. Towe to present his bill the Committee took executive action on the following bills.

DISPOSITION OF SENATE BILL NO. 115: Rep. Peterson moved that SB 115 BE CONCURRED IN, seconded by Rep. Fritz. The motion CARRIED UNANIMOUSLY. Rep. Nelson will carry the bill.

DISPOSITION OF SENATE BILL NO. 78: Rep. Harbin moved that SB 78 BE CONCURRED IN, seconded by Rep. Cody. The motion CARRIED UNANIMOUSLY. Rep. Harbin will carry the bill.

CONSIDERATION OF SENATE BILL NO. 24: Sen. Tom Towe, Senate District #46, sponsor, said this bill came out of the Select Committee on Indian Affairs and said that there are problems of Indian jurisdiction coming up. Indian nations are separate sovereign nations so there are problems in providing services on the reservations. Agreements are entered into between the county, cities, State or State agencies and a tribe and this helps to provide services. He said there are a large number of items that need to be handled. This bill addresses who would administer these agreements. He said if the stricken material is read very carefully that affects everything and there isn't anything left. This language is being stricken and reworded so they can do it differently. He explained the language being inserted on page 1, lines 17-22. This bill encourages them to deal in substantive matters that can be mutually agreed upon.

PROPOSERS: Gary Kimbel, on behalf of Louis Clayborn, Coordinator of Indian Affairs, read Mr. Clayborn's prepared testimony which is attached as Exhibit #4. He said they do support this bill to allow governmental cooperation between the State and tribes.

Rep. Dorothy Cody wished to be on the record as a proponent of SB 24 as did Rep. Ray Harbin and Roland Kennerly.

OPPOSERS: There were no opposers.

DISCUSSION OF SENATE BILL NO. 24: There were no questions from the Committee.

Without further comment, Sen. Towe closed.

CONSIDERATION OF SENATE JOINT RESOLUTION NO. 23: Sen. Jack Haffey, Sen. District #33, sponsored the Resolution asking that Congress and the President take a role on behalf of the United States in pursuing peace in Ireland. Because this country has benefited so greatly from these two nations, we have a responsibility to pursue the peace process in Ireland.

PROPOSERS: Sen. Bob Brown, Sen. District #2, appeared as a proponent of SJR 23. He said that if, in some small way this Resolution could help, it would be a good thing to do.

Jim Murry, Executive Secretary of the AFL-CIO, and also a member of the American Labor Committee for Human Rights in Northern Ireland, was also a supporter of the Resolution

Rep. Helen O'Connell and Rep. Dorothy Cody also wished to be on record as proponents of SJR 23.

OPPOSERS: There were no opposers.

There being no questions from the Committee, Sen. Haffey closed saying that this is a legitimate attempt to urge Congress to do the responsible thing.

The Committee then went into executive session on the remaining bills heard on this date.

DISPOSITION OF SENATE JOINT RESOLUTION NO. 23: Rep. Smith moved that SJR 23 BE CONCURRED IN, seconded by Rep. O'Connell. The motion CARRIED UNANIMOUSLY. Rep. Menahan will be asked to carry the bill.

DISPOSITION OF SENATE BILL NO. 24: Rep. Kennerly moved that SB 24 BE CONCURRED IN, seconded by Rep. Campbell. The motion CARRIED UNANIMOUSLY. Rep. Kennerly will carry the bill.

DISPOSITION OF SENATE BILL NO. 13: Rep. Cody moved that SB 13 BE CONCURRED IN, seconded by Rep. Campbell. The motion CARRIED UNANIMOUSLY. Rep. Spaeth will be asked to carry the bill.

There being no further business the meeting adjourned at 9:50 a.m.



WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/7/85

| NAME | PRESENT | ABSENT | EXCUSED |
|----------------------------|---------|--------|---------|
| Chairman Walter Sales | / | | |
| V-Chairman Helen O'Connell | / | | |
| Campbell, Bud | / | | |
| Compton, Duane | / | | |
| Cody, Dorothy | / | | |
| Fritz, Harry | / | | |
| Garcia, Rodney | / | | |
| Hayne, Harriet | / | | |
| Harbin, Raymond | / | | |
| Holliday, Gay | / | | |
| Jenkins, Loren | / | | |
| Kennerly, Roland | / | | |
| Moore, Janet | | | |
| Nelson, Richard | / | | |
| Peterson, Mary Lou | / | | |
| Phillips, John | / | | |
| Pistoria, Paul | | | |
| Smith, Clyde | / | | |
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20. 91

MANDATORY RETIREMENT
S.B. 115

The issue of mandatory retirement for law enforcement officers and firefighters in Montana, was addressed by the Montana Supreme Court in the case of a game warden, Cortney Taylor vs Department of Fish, Wildlife and Parks, in 1984.

The decision would have allowed the Public Employees' Retirement Board to seek legislation to reinstate mandatory retirement under Montana law.

Based on current trends in federal statute concerning age discrimination and retirement, it was the decision of the Public Employees' Retirement Board to seek legislation that would not continue the question of mandatory retirement.

This legislation has no cost to any of the systems; it may have some small savings depending on how many individuals who are able and decide to work longer.

Currently, the majority of retirees retire before the mandatory retirement age.

Failure to repeal the mandatory retirement age would place the retirement systems in conflict between the courts and the statute.

Larry Jacobson
3/67/85

06 MARCH, 1985

REPRESENTATIVE WALTER SALES
CHAIRMAN,
STATE ADMINISTRATION COMMITTEE
HOUSE OF REPRESENTATIVES
CAPITOL STATION
HELENA, MONTANA 59601

MR. CHAIRMAN:

The Montana State Volunteer Firefighters Association goes on record as supporting SENATE BILL NO. 78, "AN ACT TO EXEMPT FIRE DEPARTMENT RELIEF ASSOCIATIONS HAVING ANNUAL RECEIPTS OF LESS THAN \$20,000.00 FROM AUDIT BY THE DEPARTMENT OF COMMERCE; AMENDING SECTION 2-7-503, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

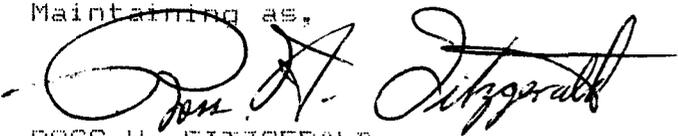
Reasons of Support:

1. Cost of state audits can run 20-50% of total receipts depending on location and time.
2. In-house audit can be just as effective and accurate for public review and inspection of these small relief associations.
3. It was an inadvertant oversight last legislature (1983) that fire dept. relief associations were left out of the original change.

We would appreciate your positive consideration for a do-pass recommendation on SB 78.

THANK YOU.

Maintaining as,



ROSS H. FITZGERALD
LOBBYIST,
MT. ST. VOL. FIREFIGHTERS ASS'N
R.R. # 5929
GREAT FALLS, MONTANA 59401
453-6431 (home), 463-2343 (farm)

LYLE NAGEL
LOBBYIST
MT. ST. VOL. FIREFIGHTERS ASS'N
P.O. BOX 93
SIMMS, MONTANA 59477
264-5151 (home)

EX. #3
SB-24
3/7/85

STATE COORDINATOR OF INDIAN AFFAIRS



TED SCHWINDEN, GOVERNOR

1218 EAST SIXTH AVENUE

STATE OF MONTANA

(406) 444-3702
DONALD L. CLAYBORN, COORDINATOR

HELENA, MONTANA 59620

MARCH 7, 1985

TESTIMONY

SENATE BILL NO. 24

MR. CHAIRMAN AND MEMBERS OF THE ST. ADMIN. COMMITTEE. I AM LOUIE CLAYBORN OF THE COORDINATOR OF INDIAN AFFAIRS OFFICE. I AM HERE IN SUPPORT OF SENATE BILL NO. 24, THE ACT OF CLARIFYING LIMITATIONS ON PERMISSABLE SUBJECT MATTER OF STATE/TRIBAL COOPERATIVE AGREEMENTS AMENDING SECTION 18-11-110, MCA.

THIS AMENDMENT, TO THE COOPERATIVE AGREEMENTS ACT, WHICH ALLOWS GOVERNMENTAL COOPERATION BETWEEN THE STATE AND TRIBE, IS SIMPLE IN LANGUAGE, BUT IS SIGNIFICANT IN EFFECT. IT, IN EFFECT, PROTECTS THE JURISDICTIONAL AUTHORITY OF THE COURTS AND GOVERNMENTAL BRANCHES OF BOTH ENTITIES FROM POTENTIAL INFRINGEMENT BY A COOPERATIVE AGREEMENTS. EITHER AS AN INTENTIONAL OR UNINTENTIONAL MATTER. AT THE SAME TIME ALLOWS FOR THE REMOVAL OF A MAJOR STUMBLING BLOCK IN LANGUAGE, IN THE EXISTING COOPERATIVE AGREEMENTS ACT. THIS BILL WILL PROMOTE AN ATMOSPHERE OF COOPERATION BETWEEN TRIBAL GOVERNMENTS, LOCAL GOVERNMENTS AND STATE GOVERNMENT.

THE SECOND AMENDED SECTION IS, FROM ITS APPEARANCE, SOMEWHAT HOUSE-KEEPING IN LIGHT OF THE ADDITION OF THE FIRST AMENDMENT. THE DELETED SECTION ALLOWS FOR THE ALIENATION, FINANCIAL ENCUMBRANCE AND TAXATION OF PROPERTY WHICH OF COURSE IS ALLOWABLE UNDER THE FIRST SECTION.

THE TRIBES OF MONTANA SUPPORT THESE AMENDMENTS TO THIS IMPORTANT LAW AND I HEARTILY ENDORSE A DUE PASS RECOMMENDATION OUT OF COMMITTEE.

STANDING COMMITTEE REPORT

March 7

19 85

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 13

Third reading copy (Blue)
color

CLARIFYING THAT MAPA DOES NOT APPLY TO LOCAL GOVERNMENT UNITS

Respectfully report as follows: That SENATE Bill No. 13

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 7

19 35

MR. SPEAKER

STATE ADMINISTRATION

We, your committee on

SENATE

24

having had under consideration Bill No.

Third reading copy (Blue)
color

TO CLARIFY LIMITATIONS ON STATE TRIBAL COOPERATIVE AGREEMENTS

Respectfully report as follows: That SENATE Bill No. 24

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 7

19 85

MR. **SPEAKER**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE** Bill No. **78**

Third reading copy (Blue)
color

**EXEMPTING CERTAIN FIRE DEPARTMENT RELIEF ASSOCIATIONS FROM
AUDIT**

Respectfully report as follows: That **SENATE** Bill No. **78**

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 7

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MR. SPEAKER.....

We, your committee on STATE ADMINISTRATION.....

having had under consideration SENATE..... Bill No. 115.....

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color

REMOVAL OF MANDATORY RETIREMENT AGES FROM CERTAIN RETIREMENT ACTS

Respectfully report as follows: That SENATE..... Bill No. 115.....

BE CONCURRED IN

~~DO-PASS~~

STANDING COMMITTEE REPORT

March 7

19 85

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE JOINT RESOLUTION Bill No. 23

Third reading copy (Blue)
color

**URGING U.S. TO SEND ENVOY TO IRELAND TO WORK FOR PEACEFUL
END TO CONFLICT**

Respectfully report as follows: That SENATE JOINT RESOLUTION Bill No. 23

BE CONCURRED IN

~~DO PASS~~