

LC No. _____
HB/SB _____¹

REPORT AND RECOMMENDATION OF THE
STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE (SAVA)
TO THE 2013 LEGISLATURE AS OF NOVEMBER 2012²

Proposal No. 8

Proposing Entity: MACo

Short Title: Revise membership of the PERS Board to represent local employers.

Retirement system(s) affected

All systems administered by the PERS Board.

Proposal summary

The proposal is for the PERS Board to be restructured and balanced so that employers and members or beneficiaries are equally represented. The proposal would expand the membership of the board. The full membership of MACo will not consider this proposal until September.

Fiscal implications

Currently, the PERS Board consists of seven members appointed by the governor. Under section 2-15-1009, MCA, the members are:

"(a) three public employees who are active members of a public retirement system. Not more than one of these members may be an employee of the same department and at least one of these members must, no later than July 1, 2003, be a member of the defined contribution plan created pursuant to Title 19, chapter 3, part 21.

(b) one retired public employee who is a member of the public employees' retirement system;

(c) two members at large; and

(d) one member who has experience in investment management, counseling, or financial planning or who has other similar experience.

(3) The term of office for each member is 5 years."

Members are entitled to compensation of \$50 a day (unless they are salaried public employees) and travel expenses.

¹ This report summarizes SAVA's recommendation to the Legislature as of November 2012. The report is not a summary of a bill, but of a retirement proposal as presented to SAVA during the interim. The specifics of the proposal summarized may have changed during the subsequent drafting and legislative processes.

² Report issued pursuant to 5-5-228, MCA.

Under the proposal, compensation and travel expense costs would increase depending on the number of board members added.

Effect on other Montana retirement systems

None.

Soundness as matter of retirement policy

None of the principles and guidelines adopted by SAVA on January 27, 2012, directly relate to the composition of the administrative boards of the retirement systems. However, the following guideline does relate to board members as trustees:

Guideline K - The legislature should establish strict fiduciary standards and conflict of interest laws to govern the conduct of trustees as they manage the assets of the retirement system.

Comparison with other states

Sheryl Wood, Associate Director of MACo, testified to SAVA on August 8, 2012, that MACo would provide the legislature with research about pension board membership in other states. Seven of 18 states who responded to MACo's national survey reported retirement board membership with local employer representation: Colorado, Maryland, Nebraska, New Hampshire, North Carolina, and Oregon.³

Also at the August 8 SAVA meeting, SAVA member Sen. Jent urged the various state and local stakeholders to talk to one another and discuss their concerns. Responding to this suggestion, MACo coordinated a stakeholder meeting, which was held on August 27, 2012, and was summarized in a memorandum provided to SAVA.⁴

Legal implications

This proposal does not raise any legal or contract impairment concerns.

Testimony received

Proponents:

Sheryl Wood, Deputy Director, MACo, testified, that counties are struggling to provide basic services and that providing a quality retirement system is important to counties. She said that it seems that employers are not involved in the decision-making and that there should be more collaboration. She said she had received 15 responses from a survey of retirement boards in other states and that 11 of them had employer representatives on the board. Sheryl testified that experience in matters of local finance was important.

³ MACo survey of National Council of County Association Executives, August 2012.

⁴ Memorandum by Sheryl Wood, MACo Associate Director, to SAVA Members dated October 30, 2012.

Mark Murphy, Montana County Attorney's Association, testified in support of the proposal. Mr. Murphy raised an issue with respect to contracts with local governments and unilateral changes to the contract.

Opponents:

Ms. Melanie Symons, testified that the legislative committee of the PERS Board opposes the proposal as presented by MACo. She said that the committee does agree with the need to work collaboratively and that the Board works hard to ensure that happens. She said a structural change to the Board is not necessary. Ms. Symons noted that under Article VIII, Section 15 of the Montana constitution, the Board has the duty to to administer the system as fiduciaries of system participants and their beneficiaries. She said any member of the Board would have the same duty and would be obligated to act on behalf of members. She also said there are more than 550 employers who participate in the system. She noted that the Board's meetings are open to the public and anyone can come and participate in the meeting.

Committee discussion

In response to a question from Sen. Jent, Ms. Symons stated that in PERS, more than 50% of the system's estimated 30,000 members work for local governments. Sen. Jent also noted that local government entities are funded by various fees and funding sources and it gets complicated quite quickly, which needs to be considered when employer contributions are to be increased. The committee's questions and discussion then turned to whether MACo could reach out to the governor's office, the retirement boards, and other stakeholders and that the communication is a two-way street. A suggestion was made that a working group should be convened so that the boards, unions, the governor's office, and other stakeholders could discuss concerns and come back to SAVA with a proposal for what local governments should contribute.