MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on February 8, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:
Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary

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

Committee Business Summary:
Hearing & Date Posted: None

Executive Action: HB 148; HB 181; HB 430; HB 346; HB 386

EXECUTIVE ACTION ON HB 148

Motion: VICE CHAIR BROWN moved that HB 148 DO PASS.

Motion: CHAIRMAN JENT moved that AMENDMENT HB014801.ash BE ADOPTED.
EXHIBIT(sth31a01)

Discussion:

CHAIRMAN JENT, HD 64, BOZEMAN, asked Ms. Heffelfinger, Legislative Services Division, to explain the amendments. **Ms. Heffelfinger** reminded the Committee that Amy Carlson, Governor's Budget Office, had requested that the appropriation to fund this bill for the next biennium be put into the bill so her office would not have to add funds line by line in HB 2; this amendment accomplishes this. She added the numbers on the second page were provided by the Budget Office.

VICE CHAIR DEE BROWN, HD 3, HUNGRY HORSE, exclaimed she had never seen this done before and wondered if the Legislature would have to come back next session and do this again. **Ms. Heffelfinger** disagreed, stating it would be in the base budget for next year and in every subsequent budget. The bill is not included in the base and therefore, was not included in this year's Governor's budget. **VICE CHAIR BROWN** asked why it had not been included. **Ms. Heffelfinger** replied she did not know. **VICE CHAIR BROWN** thought there should have been better communication between the Retirement Board and the Governor's Office.

REP. SUE DICKENSON, HD 25, GREAT FALLS, inquired whether reference was made to the previous or the current Administration. **Ms. Heffelfinger** advised reference was made to Gov. Martz' budget.

CHAIRMAN JENT surmised this appropriation would be part of the budget until the unfunded liability was paid off. **Ms. Heffelfinger** agreed, stating the increase in employer contribution for public employees, sheriffs, game wardens, and peace officers would be in the budget until the Legislature decided otherwise.

REP. ALAN OLSON, HD 45, ROUNDUP, requested that Ms. Heffelfinger explain the difference between a statutory appropriation and one through HB 2. **Ms. Heffelfinger** stated that a statutory appropriation is a permanent appropriation; the contributions to the retirement plan are statutorily appropriated at the current rate. The appropriation in HB 148, which represents an increase, only lasts through the biennium since it not a statutory appropriation and will be part of the budget hereafter because of the statutory appropriation already in law.

REP. ALAN OLSON asked her to explain why this was not going to be part of HB 2. **Ms. Heffelfinger** stated the reason for this was that it was not included in this biennium's budget which is built on current contribution rates. Statutory appropriation affects only the current level of funding; had this been in the budget, it would be in HB 2. She reminded the Committee of Ms. Carlson's request to work it into this bill so that the amounts would not have to be broken down agency by agency, and line by line as required for HB 2. **Ms. Heffelfinger** added if the Committee chose not to put the appropriation into HB 148, HB 2 would have to be amended, agency by agency, or there would be no funding provided and employers would be required to fund this out of whatever appropriation they will get.

REP. BERNIE OLSON, HD 10, LAKESIDE, noted that he kept a running total on the cost of retirement bills, and HB 148 alone cost $13 million; he wondered if this was correct.

(REP. HENDRICK left at 8:20 A.M.)

VICE CHAIR BROWN suggested that Kelly Jenkins, Public Employees' Retirement Board, answer the question.

CHAIRMAN JENT referred to the fiscal note, and asked where the money came from. **Mr. Jenkins** explained that this bill does not only impact the general fund but also local governments. He added not all of the funding comes from the general fund, but the total cost is $13 million for the biennium. **CHAIRMAN JENT** asked him how much of this would come out of the general fund. **Mr. Jenkins** stated it was $1.24 million per year for the biennium. **CHAIRMAN JENT** surmised that the remainder came from the pension trust funds, which **Mr. Jenkins** confirmed, adding that the revenue came from other State and local government funding sources as it impacts payroll withholdings of government employees.

REP. HAL JACOBSON, HD 82, HELENA, observed that adding the general fund numbers in the fiscal note for FY 2006 would approximate the net impact of $1.237 on the general fund; the same was true for the numbers for FY 2007; this lead him to believe that the amounts were broken down as per their affect on the general fund impact which **Ms. Heffelfinger** confirmed.

REP. A. OLSON noted he supported this amendment because it served to clean up the bill; he added he saw no reason to turn it over to the Appropriations Committee.

REP. JOAN ANDERSON, HD 59, FROMBERG, asked whether she understood correctly that upon passage of the bill, the appropriation would not have to be in HB 2 but continued to be a statutory appropriation until the unfunded liability was paid. **Ms. Heffelfinger** corrected her by saying this bill did not have a statutory appropriation in it; the bill simply covered this biennium. In current law, though, there already exists a statutory appropriation for employer contributions made by the State. She added the bill did not have a termination date but provided for a periodic review to determine whether the amounts were sufficient. If the amortization is less then twenty-five years, the State is allowed to decrease the contribution rate to the current 6.9%.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 24.6}

(REP. A. OLSON left at 8:30 A.M.)

REP. GARY MACLAREN, HD 89, VICTOR, asked for clarification of the language in the amendment under "New Section." **Ms. Heffelfinger** referred to Section 1 of the bill, where it states that the employer contribution rate is 6.9%. The new language is on Page 1, Line 29, stating that beginning July 1, 2005, the 6.9% is increased by .66%, and beginning July 1, 2006, by 1.33%; these increases are necessary for the continued soundness of the retirement system. Therefore, the new language he had referenced meant the money is appropriated for the biennium so that the employer, meaning all state agencies, can pay the additional increases of .66% and 1.33%, respectively.

Vote: Motion carried unanimously by voice vote; REPS. A. OLSON and HENDRICK voted aye by proxy.

Motion: REP. JONES moved that AMENDMENT HB014802.ASH BE ADOPTED. EXHIBIT(sth31a02)

(REP. A. OLSON returned at 9:35 A.M.)

Discussion:

CHAIRMAN JENT asked Ms. Heffelfinger to explain the amendments. **Ms. Heffelfinger** advised that the amendment requires an annual actuarial evaluation and a report to the Legislative Audit Committee. She proceeded to read the entire amendment, summarizing that it applies to all eight retirement systems administered by the Montana Public Employees' Retirement Administration (MPERA).

{Tape: 1; Side: B}

REP. JACOBSON wondered whether it required a fiscal note. **VICE CHAIR BROWN** explained there was a cost of approximately $35,000 associated with an annual report. **REP. JACOBSON** asked to redirect to Mr. Jenkins. **CHAIRMAN JENT** explained the cost had to do with hiring a certified actuary to compile such a report. **Mr. Jenkins** agreed that the cost is roughly $35,000 each time an actuary compiles one of these reports.

VICE CHAIR BROWN commented that the last Legislative Audit Report revealed a shortfall was imminent but the Board chose to ignore it. She was not sure this amendment was the best way to go about it, adding if the amendment provided for examination of investment strategies by the Board of Investments, she might support it.

REP. DICKENSON surmised the question was whether to have an annual or biennial evaluation.

REP. JACOBSON stated he felt this type of situation was the exception and not the rule. He agreed with VICE CHAIR BROWN that PERS was aware of this but given the vicissitude of the stock market over the last three years which resulted in some very uncertain funding of the retirement systems, he thought the idea behind the amendment was good; he doubted, though, that it was needed.

VICE CHAIR BROWN surmised the issue was whether this Committee should hold the Retirement Board accountable or whether the reproach should be directed at the Board of Investments. She was certain, though, that this issue will be re-visited by the Audit Committee as they do every two years and submitted that therefore, it was not a good idea to spend $35,000 on a report.

REP. JONES commented that markets are moving faster and more dramatically than they ever had, and he was concerned that external circumstances were creating a huge national debt which does affect the stock market. He did not foresee a rise in the market or even sustainability at 8% which is the basis of the actuary's assumptions; hence the need for the proposed annual reviews. He was adamant that this Committee had a fiduciary responsibility and, since the Legislature only meets every two years, submitted annual reviews were necessary. **REP. JONES** stated the other issue that was bothering him was the fact that the Legislature had to authorize funds to bolster the retirement system and asked how many times this had happened.

CHAIRMAN JENT asked VICE CHAIR BROWN to comment on this issue. **VICE CHAIR BROWN** contended this was the first occurrence in about thirty years; she understood REP. JONES' concerns and felt that

PERS and the Teachers' Retirement System both knew they were being watched. She believed, though, that a bill enabling examination of the Board of Investment's policies was the way to address those concerns with regard to the Committee's fiduciary responsibilities.

CHAIRMAN JENT commended REP. JONES for bringing the issue forward. He stated the Board has the legal and fiduciary responsibility, but the Legislature, and particularly this Committee charged with examining these policies, have an oversight responsibility which parallels the fiduciary responsibilities of the Board. He agreed with REP. JONES' assessment that the Retirement Board has supervision over the assets but the investment decisions are made by the Board of Investments. **CHAIRMAN JENT** admitted he was a bit troubled by the amendment; he agreed that oversight on an annual basis was an excellent idea but concurred with VICE CHAIRMEN BROWN in that the Legislative Audit Committee would assume that role as they were aware of the issue. It was his opinion that by having exposed the shortcomings, the Committee had alerted the responsible parties that the Legislature would not authorize additional funds on a biennial basis. He added he would vote against the amendment simply because of the cost.

Vote: Motion failed 5-11 by roll call vote with REP. ANDERSEN, REP. CAFERRO, REP. JONES, and REP. OLSON voting aye; REP. HENDRICK voted aye by proxy.

Motion: REP. BROWN moved that HB 148 DO PASS AS AMENDED.

Discussion:

REP. BRUCE MALCOLM, HD 61, EMIGRANT, inquired if the $13 million asked for in HB 148 was additional money. **CHAIRMAN JENT** confirmed this and repeated the constitutional requirement that if there was an unfunded liability, it has to be paid off over a period of thirty years. When evaluations show insufficient funds as is the case now, it makes it necessary to add more funds by increasing contributions. HB 148 does that by increasing the payroll contributions incrementally until the deficit is resolved, and it terminates at such time.

(REP. HENDRICK returned at 9:50 A.M.)

REP. MALCOLM asked why it was necessary to make such a large contribution for a deficit lasting only a couple of years.

REP. A. OLSON explained that when the investment returns were plentiful, retirement benefits were increased and the money was spent; when the marked dropped, the State was left with the increased benefits which it mandated to pay. He reminded the Committee of the "leap-frogging" which was explained in prior testimony: once an agency or department is granted additional benefits, all others follow suit with similar requests. This poses no problem when funds are available but when they are not, funds have to be raised from another source to satisfy the obligations.

REP. MALCOLM surmised that the 8% investment return was not enough to keep the system actuarially sound. **CHAIRMAN JENT** conceded that the investment return has not met expectations for actuarially funding as required by law.

VICE CHAIR BROWN concurred with REP. A. OLSON, saying the Legislature had seen the "leap-frogging" phenomena in the last three sessions. She reminded the Committee of the Retirement Board's statement that "once you give it, you can never take it away," meaning benefits cannot be decreased once they have been expanded; moreover, the State is constitutionally mandated to pay for them and keep the system actuarially sound. She saw no other choice but to pass this bill.

REP. MALCOLM stated that a private business could not turn to the State for help if their assumptions did not pan out; they would either need to get a loan or extend the amortization period. He wondered how badly off the system would be in two years if the Legislature did not bail it out this time.

VICE CHAIR BROWN advised that people would operate their own personal retirement accounts this way, but the Legislature does not have the luxury of operating a public employees' retirement system in that manner.
{Tape: 1; Side: B; Approx. Time Counter: 0 - 25}

CHAIRMAN JENT concurred, adding that the State is obligated by law to honor the retirement contracts; they cannot be operated as a private business. The statutes in Title 19 which govern public retirement are written with the idea of enforcing these contracts. This bill is necessary because of the shortfall of funds; when the system will have corrected itself, contribution levels will revert back to current statute.

REP. MALCOLM wondered about the alternative, namely how many additional years it would take to make the system sound if the bill did not pass.

CHAIRMAN JENT asked David Senn, Executive Director, Teacher's Retirement System (TRS), to explain. **Mr. Senn** advised that the current contribution rate for TRS would not amortize the unfunded liability, meaning there is no ending date.

REP. JONES stated he would vote for this bill because it was necessary. He advocated the annual reports because of what they might uncover, pointing to the fact that the Board of Investments had bought Enron bonds, for instance. He contended the shortfall was due to more than the dip in the stock market; it also had to do with cash flow which would be greatly affected by the ever increasing size of government.

REP. DICKENSON surmised this put the Committee on the spot as it involved issues of trust: by law, pensions cannot not be decreased when times are tough but, according to the fiscal note, this has a huge impact on local governments. She knew the Committee had no other option but to pass HB 148. She concurred with REP. JONES in that wise investment choices were paramount as investments could not always be counted on to produce the kind of growth that were anticipated and built into assumptions. She expressed hope that the current situation would promote sound investment policies.

{Tape: 2; Side: A}

Vote: Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 181

Motion: REP. JACOBSON moved that HB 181 DO PASS.

Motion: REP. HAMILTON moved that AMENDMENT HB018101.ash BE ADOPTED.
EXHIBIT(sth31a03)

Discussion:

CHAIRMAN JENT asked Ms. Heffelfinger to review the amendments with the Committee.

Ms. Heffelfinger stated that the bill had reduced benefits for future employees; the amendments strike these provisions so that there will not be a two-tiered benefit structure. The key amendment, in Item 7, is the increase in the employer contribution rate to 10.62%, beginning July 1, 2009. The bill already provides for increases in the employer contribution rate from the current 7.47% to 8.67% beginning July 1, 2005, and a second increase to 9.87%, beginning July 1, 2007. The .75% increase as per Item 7 of the amendment translates into $3 million per year. As introduced, the bill would have provided for the benefit calculations to be based on the highest five years' average instead of the current three, thereby reducing benefits for employees hired after the effective date of the bill which is July 1, 2005. The amendment strikes this section.

VICE CHAIR BROWN opined that the amendment moved the Teachers' Retirement System (TRS) in the right direction. As an educator, she had witnessed teachers leaving their profession for the last three years and go into administration to bump up their retirement benefits. She commented that those teachers had not paid into the system at the rate on which their retirement was based. She added she would like TRS to implement a better plan as people lived longer and experienced teachers were leaving for other states with better benefit packages.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 11.5}

Ms. Heffelfinger advised the second part of the amendment served to put the appropriation into the bill as the Committee had done with HB 148; the numbers had been updated as requested by the Budget Office.

REP. JONES asked if striking Sections 5 through 9 would strike these provisions out of statute. **Ms. Heffelfinger** advised it took them out of the bill so these sections of current law would not be amended.
REP. ANDERSEN pointed to a misstatement by VICE CHAIR BROWN, contending that the amendment resulted in current statute staying the same in that benefits would be calculated based on the highest three-year average.

VICE CHAIR BROWN apologized, stating she was under the impression that the bill changed it to a five-year average.

Ms. Heffelfinger referred to a handout provided by Mr. Senn at the hearing which shows, on Page 3, which sections were taken out of the bill by the amendment.

VICE CHAIR BROWN commented that a five-year average would be beneficial.

REP. DICKENSON recalled testimony from the Governor's Budget Office that a change at this time would not help with the problem of teachers leaving prematurely because it only applied to new hires; it would, in fact, be detrimental to recruitment.

REP. ROBIN HAMILTON, HD 92, MISSOULA, agreed with VICE CHAIR BROWN in that some abuse the system by teaching for twenty-five years and then working as an administrator for three more years. He felt this should be fixed in a different way, though, because if the requirement was for a five year average, teachers will adjust accordingly and nothing would be gained.

Asked by the Chairman to cover additional changes effected by the amendment, **Ms. Heffelfinger** referred again to Mr. Senn's handout and stated Section 7 of the bill changed retirement eligibility to thirty years of service and a minimum age of 55; current law states 25 years of service regardless of age. The amendment strikes this new provision, leaving current statute as is. Section 8 of the bill relates to early retirement; the amendments take out the change which would have increased the eligibility criteria from 50 to 55 years of age.

REP. DICKENSON recalled there was another bill dealing with early retirement. She surmised that even if the amendment passed, the issue would come up again in another bill. **CHAIRMAN JENT** advised she was referring to his bill, HB 338, which increases the multiplier if a teacher serves for thirty years.

REP. MARY CAFERRO, HD 80, HELENA, asked VICE CHAIR BROWN to explain her statement that these issues should be dealt with in another way.

VICE CHAIR BROWN advised that in her opinion, Montana's retirement system was skewed to early retirement; she saw a need to provide incentives for teachers to stay longer but conceded it could not be added to this bill since no such provisions were in the title; the bill's goal was to make the system actuarially sound.

CHAIRMAN JENT concurred, adding that all the other provisions which were in the bill were eliminated by the amendment.

REP. A. OLSON wondered what the amendments would do to the fiscal note.

Ms. Heffelfinger advised passage of the amendment would require a new fiscal note. The numbers in the amendment were requested by the Budget Office to tweak their numbers based on the introduced bill, and were approved by REP. MUSGROVE who is the bill's sponsor.

Vote: Motion carried 15-1 by voice vote with REP. MACLAREN voting no.

Motion: REP. BROWN moved that HB 181 DO PASS AS AMENDED.

Motion: REP. JONES moved that AMENDMENT HB018102.ash BE ADOPTED. EXHIBIT(sth31a04)

{Tape: 2; Side: B}

Discussion:

REP. DICKENSON ascertained that this amendment did not change biennial to annual but merely required a report as there was no actuarial report to the Legislative Audit Committee from TRS.

VICE CHAIR BROWN contended this was an inaccurate statement as REP. JACOBSON was holding up the last audit report from the TRS.

REP. DICKENSON wondered why this amendment was requested if there already was a report.

Ms. Heffelfinger advised that the Teachers' Retirement Board is currently required by statute to prepare an annual actuarial evaluation; the amendment specifies that this report is sent to the Audit Committee because they audit the report. She added that the TRS Board actually prepares a biennial report which is more thorough, but the annual report is available to the Interim Audit Committee.

Vote: **Motion failed 4-12 by roll call vote with REP. CAFERRO, REP. JONES, REP. MACLAREN, and REP. B. OLSON voting aye.**

Motion: **VICE CHAIR BROWN moved that HB 181 DO PASS AS AMENDED.**

Discussion:

VICE CHAIR BROWN contended that a strong letter from this Committee to the Retirement Board, requesting that this report be sent annually to the Legislative Auditor, was a better solution than codification.

CHAIRMAN JENT concurred, saying he would be glad to sign such a letter and, without objection, so ordered it.

Vote: **Motion carried unanimously by voice vote.**

{Tape: 2; Side: B; Approx. Time Counter: 0 - 6.8}(CHAIRMAN JENT announced a 10-minute break; the Committee reconvened at 9:50 A.M.; REP. CAFERRO did not return)

EXECUTIVE ACTION ON HB 430

Motion: **VICE CHAIR BROWN moved that HB 430 DO PASS.**

<u>**Discussion**</u>:

VICE CHAIR BROWN recalled the twelve-year inequity for university faculty and the need for coordinating language for HB 181.

REP. B. OLSON wanted to make sure he understood this bill would cost $2.7 million in the coming biennium and another $4 million in 2008, and $7 million in 2009.

CHAIRMAN JENT asked Mr. Senn to clarify this. **Mr. Senn, Executive Director, Teachers' Retirement System,** advised the $2.7 million impact to the general fund for the biennium was correct. Since the contribution rate increases from the fund are phased in over time, the cost will go up to $4.1 in 2007, and to $6.7 million in 2008. After that, it will increase as salaries increase.

VICE CHAIR BROWN contended that this bill had been heard in previous sessions; it dealt with choices made by faculty members in the late 1980's who now had regrets and wanted the Legislature to back-fill their benefits. She stated she would not support the bill.

REP. DICKENSON referred to her notes which said there was no choice after 1993 because the Optional Retirement Plan became mandatory.

CHAIRMAN JENT concurred, adding that there will come a time when everyone will have to be in the "Optional Retirement Program (ORP), TIAA-CREF, as the TRS members are retiring.

REP. B. OLSON recalled that the provisions in this bill sunset in 2033.

Ms. Heffelfinger advised there was no sunset per se; she referred to Page 4, Line 4, where it says the rate is 0% beginning July 1, 2033. She explained that the State is picking up the contributions previously made by the University System, making a general fund contribution rather than an employer contribution. The general fund contribution then would terminate on July 1, 2033.

REP. EMELIE EATON, HD 58, LAUREL, requested that REP. JACOBSON speak to the issue of choice with regard to the Optional Retirement Plan. **REP. JACOBSON** compared it to freshman legislators who are given a choice to enter into the State's retirement system; they are given a six-month window to apply. If a legislator opts not to apply within the six month period, he has no recourse.

VICE CHAIR BROWN advised that currently, the contributions are paid out of university allocations rather than from the general fund. The choice to be made by the Legislature is whether the university should continue to pay for the employer contribution out of their funds or whether to give them the money from the general fund to satisfy this obligation.

Ms. Heffelfinger stated this was in the first part of the bill; the secondary part dealt with the university system increasing contributions to the individual accounts of the Optional Retirement Plan participants so that they will enjoy the same employer contribution as those employees covered under TRS.

REP. A. OLSON prodded Ms. Heffelfinger, tongue-in-cheek, where the university system's funds came from. **Ms. Heffelfinger** replied it came from both the Legislature and tuition income.

REP. DICKENSON repeated this discrepancy was created by the Legislature and it should be corrected by the Legislature. Referring to the technical notes in the fiscal note where it says if HB 181 passes, the general fund cost for HB 430 will be 14% to as much as 28% higher, she asked Ms. Heffelfinger about the reason behind the projected increase.

Ms. Heffelfinger explained that the current contribution rate for contribution by the universities to TRS is 4.04%; to pay off the unfunded liability, HB 181 increases these contributions to 4.60% in FY 2006 and to 5.16% in FY 2007 which makes the starting base for HB 430, and the cost involved, higher.
{Tape: 2; Side: B; Approx. Time Counter: 6.8 - 25.8}

REP. B. OLSON commented that he was keeping track of the cost of all retirement bills and reminded the Committee of HB 338 which had not been heard yet; comparing the two, he stated HB 430 was by far less expensive at about $13 million versus HB 338 which would cost about $30 million.

CHAIRMAN JENT objected to the comparison, saying HB 430 dealt with universities rather than the TRS retirement for K - 12 schools. **REP. B. OLSON** stated it was all general fund money. **CHAIRMAN JENT** repeated this bill dealt with an equity issue.

REP. A. OLSON advised historically, every time an optional program was set up, it seemed to necessitate a bill addressing the problems deriving from the defined contribution portion of PERS; he cited the sheriffs' and police officers' requests, adding it was happening all over again with this bill.

REP. TERESA HENRY, HD 96, MISSOULA, related her own story about how she, as a university employee, was not given the option of joining TRS in 1989 and saw the inequity first-hand. As she understood it, the employer contribution into the systems would be the same upon passage of HB 430, and the State would pick up the unfunded liability.

{Tape: 3; Side: A}

REP. HENRY asked Ms. Heffelfinger to explain the history behind the unfunded liability issue. **Ms. Heffelfinger** explained that the Optional Retirement Plan (ORP) with TIAA-CREF was much more portable and, as such, desirable at the time for the more mobile faculty as a recruitment and retention tool. It was anticipated that it would result in an exodus from the other retirement system, TRS, thereby creating a new liability. The 1993 Legislature ascertained that the ORP was unpredictable as far as membership size and determined to make the plan mandatory; actuaries calculated the percentages required to pay off the unfunded liability. To put things in perspective, **Ms. Heffelfinger** also explained the concept of "defined benefit" and "defined contribution" plans. The former does not establish individual retirement accounts and the contribution pool is not affected by stock market fluctuations as the benefits are set in statute. The ORP represents a "defined contribution" plan in which there are individual accounts comprised of employer and employee contribution; the account holder gets to chose the investments as provided by TIAA-CREF but they are subject to the volatility of the markets. **Ms. Heffelfinger** then reiterated prior testimony with regard to employer contribution being split in order to pay for the unfunded liability.

VICE CHAIR BROWN added while faculty members under ORP do bear some risk, they are also rewarded with greater benefits by planning their own retirement investments than retired teachers whose benefits are set.

REP. B. OLSON repeated the unfunded liability issue resulted from the ORP becoming mandatory, drawing membership from TRS.

Ms. Heffelfinger advised it resulted from the agreement requiring ORP enrollees to pay for their plan in order to keep TRS whole. She explained that defined benefit plans are based on future contributions and when those do not pan out, it creates an unfunded liability.
{Tape: 3; Side: A; Approx. Time Counter: 0 - 9.7}

REP. DICKENSON recounted that when this option was first presented to faculty, the stock market was doing well and they had the potential to do much better by going to a defined contribution plan. ORP was made mandatory in an attempt to establish some control over membership numbers, and when the market took a down-turn, members had no other recourse but to stay in the plan. Even though she did not relish the additional cost to the general fund, she felt some responsibility for faculty members covered by ORP.

VICE CHAIR BROWN contended this optional plan was not "crammed down their throats"; the university system wanted more flexibility and came to the Legislature, asking to make it mandatory. She was adamant that they wanted the State to pay for it now, stating she was not going to vote for it.

REP. A. OLSON concurred, asking Mr. Senn whether the idea for this program had come from the Legislature or the university system. **Mr. Senn** advised that in 1987, it was brought to the Legislature by the Board of Regents. **REP. A. OLSON** inquired if it was supported by the faculty, which **Mr. Senn** affirmed.

REP. EATON asked about the university system's stance in 1993 when the program became mandatory. **Mr. Senn** explained that in 1993, TRS asked the Legislature to eliminate the option as the system was losing members, which resulted in an increase in unfunded liability; he added that most of the younger, lower paid faculty chose ORP, thereby compounding the problem.

Vote: Motion failed 7-9 by roll call vote with REP. CAFERRO, REP. DICKENSON, REP. HAMILTON, REP. HENRY, REP. JACOBSON, REP. JENT, and REP. SMALL-EASTMAN voting aye; REP. CAFERRO voted aye by proxy.

Motion/Vote: REP. ANDERSEN moved that HB 430 BE TABLED AND THE VOTE REVERSED. Motion carried.

{Tape: 3; Side: A; Approx. Time Counter: 9.7 - 17.5}

EXECUTIVE ACTION ON HB 346

Motion: REP. DICKENSON moved that HB 346 DO PASS.

Motion: REP. BROWN moved that AMENDMENT HB034601.ash BE ADOPTED. EXHIBIT(sth31a05)

Discussion:

Ms. Heffelfinger explained this amendment strikes Subsection (b) in its entirety and replaces it with corresponding language in SB 197.

VICE CHAIR BROWN reminded the Committee that Melanie Symons, Public Employees' Retirement Board, had favored language in SB 197 over that in REP. GOLIE's HB 346; the reason behind the amendment was the goal to make this bill the best it could be.

REP. JACOBSON noted that REP. GOLIE had agreed this was a good idea because it tied his bill into SB 197.

CHAIRMAN JENT recalled that the goal was to get either one of the two bills through both Chambers.

Vote: Motion carried unanimously by voice vote; REP. CAFERRO voted aye by proxy.

Motion: REP. BROWN moved AMENDMENT HB034602.ash BE ADOPTED. EXHIBIT(sth31a06)

Discussion:

VICE CHAIR BROWN advised this was the necessary coordinating language between the two bills.

CHAIRMAN JENT asked Ms. Heffelfinger to explain the term "coordinating language" to the Committee. **Ms. Heffelfinger** advised that coordination instructions are necessary when two conflicting bills amend the same section of law. HB 346 was amended so that there is no longer a conflict; she advised, though, that it is a good idea to include coordinating instructions as the issue is which bill will trump the other. Should both bills be passed and approved, HB 346 will be void because its language will be carried forward in SB 197. If SB 197 does not pass, then HB 346 stays as is.

REP. JACOBSON recounted that REP. GOLIE had no preference as to which of the two bills were passed as long as one of them did.

Vote: Motion carried unanimously by voice vote; REP. CAFERRO voted aye by proxy.

Motion/Vote: REP. BROWN moved that HB 346 DO PASS AS AMENDED. Motion carried unanimously by voice vote; REP. CAFERRO voted aye by proxy.

EXECUTIVE ACTION ON HB 386

Motion: REP. OLSON moved that HB 386 DO PASS.

Discussion:

CHAIRMAN JENT reviewed the bill, stating it would revise the Office of the Commissioner of Political Practices, establish rules governing reviews of said Office, and allows the Commissioner to run for public office two years after completing his term.

REP. DICKENSON commented she liked the bill but resisted changing the time restriction from five to two years.

REP. B. OLSON stated the two-year stipulation brings the issue into compliance with the Governor's ethics bill.

CHAIRMAN JENT stated he liked the bill because it restricts the Governor's reasons for dismissal of the Commissioner to incompetence, malfeasance or neglect of duty, and the reasons have to be put in writing so that a court can examine whether the Governor's reasons were sufficient.

(REP. CAFERRO returns at 10:45 A.M.)

Vote: Motion carried unanimously by voice vote.

Motion/Vote: REP. OLSON moved that HB 386 BE PLACED ON THE CONSENT CALENDAR. Motion failed 15-1 by voice vote with REP. JENT voting no.

CHAIRMAN JENT favored discussion of HB 386 on the House floor because it involved a fundamental change in substantive law.
{Tape: 3; Side: A; Approx. Time Counter: 17.5 - 30.7}

{Tape: 3; Side: B}

CHAIRMAN JENT complimented the Committee on their work this morning.
{Tape: 3; Side: B; Approx. Time Counter: 0 - 0.8}

ADJOURNMENT

Adjournment: 10:50 A.M.

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REP. LARRY JENT, Chairman

____
MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

EXHIBIT(sth31aad0.PDF)