



SENATE TAXATION

EXHIBIT NO. 5

DATE 4.5.11

BILL NO. HB 585

2011 Legislative Session

Senate Taxation

Melanie Symons, Chief Legal Counsel

Montana Public Employees' Retirement Board

HB 585

Testimony before the Senate Taxation Committee

Opposing House Bill 585

April 5, 2011

- The Board has asked that I convey its opposition to this legislation.
- The Board contracts with tax counsel who have retirement law expertise, currently the law firm of ICE Miller out of Indianapolis IN, to ensure its plans remain qualified retirement plans
 - * Current contracted salaries for two contractors exceed the \$400 cap in this bill
 - * As fiduciaries for the retirement systems, the Board must be free to contract with the tax counsel it believes will best protect the retirement systems' qualifications
 - * The attorneys working for ICE Miller who receive in excess of the cap have worked both for and with IRS and the Department of Labor in the retirement arena for decades
 - * This law firm has proved very helpful to the Board when reviewing and enacting various legislative changes to the retirement systems. Without their experienced assistance, our plans' qualification status would be in jeopardy.
- Given the attention retirement issues are receiving, it is difficult to determine whether a contract for retirement-related legal services would exceed \$250,000.
- So far this year, we have paid \$8,746.55 for their services. However, we have paid \$240,625.62 in total costs since July 1, 2005. Those services include submitting plan documents and legal scenarios to the IRS for instruction; and requesting legal opinions and advice from counsel. Examples of those services include:
 - * Cycle C filings – IRS certification that our plans are qualified 401(a) plans
 - * Private Letter Ruling on our 457(b) Plan
 - * Creation of a Group Trust for joint use by DC and 457 plan members
 - * Determination of whether tribal entities can join a public retirement system;
 - * Minimum required distribution questions impacting our older members

- The process for approving these legal contracts is long and drawn out, will take needless staff time to monitor, and may delay the Board's response to issues requiring IRS attention
- These contracts are not for litigation costs, or tort defenses; insurance companies do not pick up the cost of the attorneys' services. The services are paid for from the administrative services portion of the retirement trust funds and are needed to maintain the validity of our retirement systems.
- The current system for reviewing legal contracts works well. There is no need to change it.
- The Board urges a do not concur.