State Administration and Veterans' Affairs Interim Committee
59th Montana Legislature

Committee Meeting Public Comments

November 30, 2005

To: Mr. Chairman, Members of the Committee

By: Terrence M. Smith,
Financial Officer Big Sky County Water & Sewer District 363
(O) 406-995-2660

Re: Public Employees Retirement Plan Legislation

Emphasis: These are my opinions not the opinions of the PERB

I want this committee to be made aware of the results of the 11th hour benefit increase to the PERS Defined Benefit (GABA from 1.5% to 3.0%) on the new DC plan. The new DC plan was allocated approximately 25 million dollars in unfunded liabilities as a result the of 2000 legislatures increase in the GABA. When this was developed and proposed to the legislature there was no change or reassessment of the plan choice rate (analysis for new plan benefits), even though the variables used to develop the plan choice rate had changed dramatically. The data from the 1998 schedule was no longer valid for the plan choice rate and the plan choice rate should have been updated using the 2000 Actuarial report, just as this report was used to provide support for the DB plans increased GABA. The analysis to fully explain the impact on the new plan was not done and as a result the legislature did not have the information necessary to fully debate or understand what the impact of this legislation would be on the new plan. The result of this omission resulted in the equal protection issue. The GABA provided approximately 455 million dollars in new benefits to the DB plan. Today I estimate those benefits exceed 520 million dollars. So simply put without that increase in the GABA both the new DC plan and the state would not be in the position they now find themselves.

The Governors office has made 25 million dollars available for funding priorities for the PERS retirement plans. The PERS proposal before you focus on shoring up the small plans and dealing with the large plan primarily through increased employer contributions. The exception is the remaining 10.9 million dollars, which they recommend be deposited in the Defined Benefit Plan. I would argue that a more appropriate and meaningful use would be to apply those funds towards the DC plan's allocated unfunded liability of 25 million. The DC plan participants were damaged as much as the state taxpayers by this increase in the GABA and deserve relief as much as any of the plans that this proposal provides. It is a question of equity and this legislature now being fully aware of the impact of the GABA legislation on the new plan should amend it in favor of the DC plan. The DB participants will be receiving their 500 million dollars in benefits; and the taxpayers and new DC plan will be paying for it. I am asking this legislative committee to

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direct the remaining 10.9 million dollars in funds to the DC plans allocated unfunded liability. This will not provide a full remedy of what happed to the new DC plan, but it will certainly help.

The other issue that is as egregious as the GABA impact is the new employer contributions going to payoff the allocated unfunded liability early. The new employer contributions now recognize that the benefits to the DB plan are not fully funded by the current contributions. Anyone using the state retirement plan forecasting program when deciding whether to join the DB or DC plan clearly recognized the superiority of the DB benefits.(ie. Superior benefits and funding). This disparity in funding was a direct result of not updating the Plan Choice Rate with the 2000 actuarial report, which was the basis for the increase in the GABA for the DB plan. I vehemently question the propriety of not doing that and having both plans' benefits start from the same schedule. However, the original legislators who worked on the new plan failed to anticipate the length of time it would take to start or the extent to which the benefits would be increased for the DB plan prior to the DC startup and did not provide provisions for such a scenario. Had the plan choice rate been updated with the 2000 actuarial report, there would have been no unfunded liability section to allocate to the DC plan. There is an unfunded liability to pay and the DC participants are paying it through their plan choice rate of 35% of the their employer contributions going to benefit the DB plan. With the increase in amortization period the plans current allocation (35%) of the DC Plan's employer contributions to the DB plan more then satisfies the debt schedule and normal cost adjustment. Accordingly, codifying these employer contributions to pay off the allocated unfunded liability adds insult to injury for the DC plan participants.

The board of directors at the Big Sky Water & Sewer Dist. 363 were appalled at the fact the DC plan was paying 35% of their employer contributions to support the DB Plan. When I informed them that the next round employer increases will result in 48% of the employer contributions made on behalf of the DC participants will support the DB plan and their benefits. They asked why? That has been my question all along and I have spent the last three years trying to find out. It does not have to be this one sided and all these changes asked for effect policy. The policy should be to provide two equally funded retirement plan choices for state and local governmental employees. This committee can recommend the changes I have requested to help accomplish that goal. They can then be put before the full legislature for debate at the special session. The disparities in retirement plan choices need a remedy now.

By providing the new DC plan participants the same amortization period as the DB plan the DC participants would be able to pay off the unfunded liability within 30 years without having to use the increased employer contributions. Furthermore, the unfunded liability allocated to the DC plan that is now carried on the books of DB plan as an asset earning 8% interest does not need to be paid off early. The asset is earning the interest rate required by the actuarial assumptions resulting in virtually no impact on the DB plan whether you pay it off today or in 30 years.

The committee can also direct the increased employer contributions into the employees account. This would both bring the funding of the participants in the DC plan to a level closer to the benefits in the DB plan and help provide a real choice in retirement plan options for new state and local government employees. A DC plan participant making thirty thousand dollars can expect to have an additional 8 to 10 thousand dollars in his or her retirement account after 10 years of receiving the additional employer contributions into their account. Where's the equity for the new plan participant? If and when these additional employer contributions ever end or are cut back it will be to both plans causing no equal protection concerns.

And lastly, the one time funding now available thanks to the Governor's office and the taxpayers of the state should be used equitably. This opportunity to shore up the small plans and correct some past omissions will probably never be available again. Please take this opportunity to fund the small plans in the PERS system, which includes the DC plan, which up until now has not had an adequate voice representing their interests.

I have attached pages showing where in the legislation the changes I have requested reside and language that might be used.

Sincerely,

Terrence M. Smith

{Internal References to 19-3-316:
19-3-108 19-3-112 19-3-511 19-3-2117
19-21-214 20-9-501 ok/ddb}

Section 2. Section 19-3-2117, MCA, is amended to read:

"**19-3-2117. Allocation of contributions and forfeitures.** (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to adjustment by the board as provided in 19-3-2121, of the employer contributions received under 19-3-316 ~~received on or after July 1, 2002, an amount equal to~~:

(a)(i) 4.19% of compensation must be allocated to the member's retirement account; Beginning July 1, 2006 5.01%
Beginning July 1, 2007 5.83%

~~(b)~~(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

~~(c)~~(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

~~(d)~~(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141; and

(b)(i) beginning July 1, 2006, through June 30, 2007, 0.82% of compensation must be allocated to the members retirement account. ~~defined benefit plan to minimize the plan choice rate;~~ (5.01) Total

(ii) beginning July 1, 2007, 1.64% of compensation must be allocated to the members retirement account. ~~defined benefit plan to minimize the plan choice rate; and~~ (5.83) Total.

(iii) beginning when the employer contribution under 19-3-316(3) terminates pursuant to 19-3-316(4), the allocation required under subsection (2)(b)(ii) also terminates.

(3) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account.

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to ~~subsection~~ subsections (2)(c) and (3), the employer's contribution under subsection (1)(b) must be allocated as follows:

(a)(i) 4.49% of compensation must be allocated to the participant's program account; Beginning July 1, 2006 5.31% Beginning July 1, 2007 6.13%

~~(b)~~(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

~~(c)~~(iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); and

(b) (i) beginning July 1, 2006, through June 30, 2007, 0.82% of compensation must be allocated to the participants program account; ~~defined benefit plan to minimize the plan choice rate;~~ (5.31) Total

(ii) beginning July 1, 2007, 1.64% of compensation must be allocated to the participants program account; ~~defined benefit plan to minimize the plan choice rate;~~ and (6.13) Total

(iii) beginning when the employer contribution under 19-3-316(3) terminates pursuant to 19-3-316(4), the allocation required under subsection (2)(b)(ii) also terminates.

(3) The allocations under subsection (2) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121."

{*Internal References to 19-21-214:*
19-21-203 ok/ddb}

Section 12. Section 20-3-324, MCA, is amended to read:

"**20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the

maintain the amortization of unfunded liabilities in an actuarially sound manner.

NEW SECTION. **Section 14. Appropriations.** (1) The following money is appropriated for the biennium ending June 30, 2007, to implement the retirement system state employer contribution rate increases provided for in [this act]:

	Fiscal Year 2006		Fiscal Year 2007	
	General Fund	Other Funds	General Fund	Other Funds
Executive Branch				
Office of Public Instruction				
University System				
Judicial Branch				
Legislative Branch				
Consumer Council				

(2) There is appropriated from the general fund to the public employees' retirement board:

(a) $1.4 million to be used for repaying the loan for startup costs of the defined contribution retirement plan;

(b) $11.5 million to be deposited to the credit of the sheriffs' retirement system;

(c) $1.2 million to be deposited to the credit of the game wardens' and peace officers' retirement system; and

(d) $10.9 million to be deposited to the credit of the public employees' retirement system's defined contribution ~~defined benefit~~ plan applied to unfunded liability allocated from defined benefit plan

(3) There is appropriated $100 million from the general fund to the teachers' retirement system's defined benefit plan.

NEW SECTION. ***Section 15. {standard} Effective date.*** [This act] is effective on passage and approval.

New Section.

19-3-2111 Open election again for the period 7/1/06 — 6/30/07 for members to transfer