

Review of stakeholder proposals' to amend statewide retirement systems

By Rachel Weiss
For consideration by the
State Administration and Veterans' Affairs Interim Committee (SAVA)
April 22-23, 2010

Background

As discussed at SAVA's June 2009 organizational meeting, state law requires SAVA to "solicit and review" proposed changes to the statutes governing any of Montana's statewide public employee retirement systems. SAVA decided to review proposals from organizations outside state government -- i.e., retirement system stakeholders -- at its April 22-23rd meeting. This paper is designed to help SAVA understand its obligations and discuss options regarding these stakeholder proposals.

(Proposals from the Teachers' Retirement System Board and the Montana Public Employees' Retirement Administration (MPERA) will be reviewed at SAVA's June 2010 meeting.)

Section 5-5-228(2), MCA, lists SAVA's responsibilities regarding proposals to change the retirement systems. The underlined text indicates the provisions that relate directly to this the required review.

5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

- (a) department of administration;
- (b) department of military affairs; and
- (c) office of the secretary of state.

(2) The committee shall:

- (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;
- (b) establish principles of sound fiscal and public policy as guidelines;
- (c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles;
- (d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;
- (e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:
 - (i) a summary of the fiscal implications of the proposal;
 - (ii) an analysis of the effect that the proposal may have on other public employee retirement systems;
 - (iii) an analysis of the soundness of the proposal as a matter of public policy;
 - (iv) any amendments proposed by the committee; and
 - (v) the committee's recommendation on whether the proposal should be enacted by the legislature.
- (f) attach the committee's report to any proposal that the committee considered and that is or has been

introduced as a bill during a legislative session; and
(g) publish, for legislators' use, information on the state's public employee retirement systems.

(3) The committee may:

(a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request.

Essentially, SAVA must do four things:

- 1) solicit and review proposed statutory changes;
- 2) report to the legislature on each proposal reviewed;
- 3) include in the report a recommendation from SAVA on whether or not the proposed legislation should be enacted by the legislature; and
- 4) attach the report on the specific proposal if it is introduced in the 2011 legislative session.

Most importantly, *although SAVA should make a recommendation on whether or not the proposal should be enacted, SAVA does not have to request a bill draft to jump-start the bill drafting process.* SAVA can request a bill draft for any proposal, but is not required to do so. Instead, the stakeholders may, prior to the general election, line up a holdover senator or unopposed legislative candidate to submit a bill draft request for the proposal. Or, after the general election, the stakeholder may persuade any legislator or legislative committee to request a bill draft.

Action by past SAVA committees

Past SAVA committees (or previous retirement plan review committees) have carried out the review duty in a wide range of ways. Some have included the reviews in a comprehensive written report presented to the Legislature at the end of the interim. Others have merely reviewed proposals in a meeting and, if considered advisable by the committee, requested legislation.

During the 2007-2008 interim, SAVA solicited and considered proposals from stakeholders to revise the retirement system-related statutes. Eventually, SAVA requested bill drafts for most, but not all, of the stakeholders' proposals.

For various reasons, the 2007-2008 SAVA members, sitting as a committee, did not review any drafts of the bills they requested on behalf of the stakeholders. The committee did not summarize the fiscal implications, analyze the potential effects to other retirement systems, or analyze the soundness of any of the stakeholders' proposals. Consequently, SAVA did not prepare a report on the proposals that were ultimately introduced as legislation.

Because previous SAVA committees, including the 2007-2008 SAVA, voiced concerns about and were limited by the lack of funds to pay for actuarial cost analysis, HB2 enacted in 2009 appropriated \$50,000 to SAVA for this purpose.

Duties and Options

SAVA is statutorily required to complete the required review of legislative proposals that affect the retirement systems, but especially proposals for which SAVA requests draft legislation. After hearing from the stakeholders during the April 22-23 meeting SAVA *should* discuss the relative merits and detractors of each proposals. Whenever the members consider a proposal to be sufficiently advisable, the committee should formally (by motion) request a bill draft.

Regardless of the committee's view of the proposal, the statute requires SAVA to make a recommendation to the 2011 Legislature on whether or not the proposal should be enacted. This recommendation can take place at the April 2010 meeting, or at a later meeting should SAVA wish to receive actuarial analysis or see a draft of a bill.

On behalf of the committee and based on the members' discussion of the proposal, staff will draft a report that contains the required information. The report will be made available to the 2011 Legislature, other legislators and legislative committees, and the public, and will accompany each SAVA-reviewed bill through the 2011 Legislative Session.

In addition SAVA *may*:

- Request the retirement systems' actuaries to analyze the actuarial impact of any of the proposals. To do accomplish this task, SAVA should vote to have proposing stakeholder(s) work with committee staff to draft language that will be forwarded to the actuaries for review. The resulting analysis would be presented at a later SAVA meeting, at which time SAVA would decide on a recommendation to the 2011 Legislature and could request the proposal be drafted as a committee bill.
- Request draft legislation to be developed for the 2011 Legislature. If SAVA requests a bill draft, the members can assign one of their own as the bill's sponsor or notify the proposing stakeholder that the stakeholder must find a sponsor for the resulting bill.
- Take no further action beyond the required report.

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