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State Administration and Veterans' Affairs Interim Committee

61st Montana Legislature

SENATE MEMBERS

JOE TROPILA--Chair
JOE BALYEAT
LARRY JENT
DAVE LEWIS

HOUSE MEMBERS

GORDON HENDRICK--Vice Chair
TIMOTHY FUREY
PAT INGRAHAM
ROBERT MEHLHOFF

COMMITTEE STAFF

RACHEL WEISS, Research Analyst
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

October 29 and 30, 2009 Meetings

October 30, 2009
Room 137, Capitol Building, Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. JOE TROPILA, Chair
REP. GORDON HENDRICK, Vice Chair

SEN. JOE BALYEAT
SEN. LARRY JENT
SEN. DAVE LEWIS

REP. TIMOTHY FUREY
REP. PAT INGRAHAM
REP. ROBERT MEHLHOFF

STAFF PRESENT

RACHEL WEISS, Research Analyst
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, Attachment #1.

COMMITTEE ACTION

- It was decided that staff will send a letter to the PERB requesting them to review hiring age for firefighters issue and if SAVA should be involved.
- The committee decided that no decisions should be made on the committee's adoption of the Principles and Guidelines but a decision will be made at the December meeting.
- The committee decided to develop a Request for Proposal that fits the requirements of HB 659 and also will look at the different alternatives as suggested in the RFI.
- The committee decided that the deadline for submission of nonagency proposals be set for March 31, 2010.

CALL TO ORDER AND ROLL CALL

00:00:01 Sen. Tropila called the meeting to order at 9:00 a.m. The committee secretary noted the roll visually.

AGENDA

SECRETARY OF STATE'S OFFICE UPDATES

00:01:29 Secretary of State Linda McCulloch introduced her Deputy Chief of Staff, Harper Lawson. Ms. McCulloch gave updates on the Help America Vote Act (HAVA) audit, the Secretary of State Information Management System (SIMS), and an update on SB367. She also responded to Sen. Tropila's question that he had at the last SAVA meeting about retention of records.

HELP AMERICA VOTE ACT AUDIT

00:02:21 Ms. McCulloch said that she requested an audit to be done by the Federal Government on their HAVA funds. The audit will begin the week of November 9, 2009.

SECRETARY OF STATE INFORMATION MANAGEMENT SYSTEM (SIMS)

00:03:34 Ms. McCulloch said the Secretary of State's Office came before the Governor and the Legislature last session asking for some of the stimulus money to put in place a new state information management system. An

RFP was done before she came into office. She said that \$1.5 million was approved and the contract was awarded to a company called File One. The SIMS team includes the IT Department, the Business Services Department, and contracted services from File One and Assure IT.

00:04:29

SENATE BILL 367

Ms. McCulloch distributed a copy of SB 367 to the committee (**Exhibit 13**) and discussed what the bill did. The federal Military and Overseas Voter Empowerment Act (MOVE) was passed addressing several items enumerated in SB 367, and with the passage of the MOVE Act, their committee's investigation and problem resolution listed in SB 367 will be changed to a discussion of implementation of the Act.

00:11:59

RESPONSE TO SEN. TROPILA'S QUESTION

Why are state government documents saved on microfiche and microfilm instead of using the digital medium?

Ms. McCulloch showed the committee what microfiche and microfilm looked like and discussed computer floppy disks and computer drives that documents are now being saved on. She said that microfiche and microfilm stay in good shape for a long time and the machines that operate microfiche and microfilm are simple and don't wear out. The use of microfiche and microfilm is the national standard of saving and storing documents.

Questions

00:13:24

Rep. Furey asked for an update on the Veterans Appreciation letter program. Ms. McCulloch said that their office did not send letters to military personnel. Instead, they sent a letter from the Office with a copy to both the House and Senate asking them to make sure that the resolution would be sent to all the service men and women.

00:14:44

Sen. Tropila asked for a status on the notary act. Ms. McCulloch said that they have been doing training around the state. Notaries are pleased with the information and training has been well-received.

Public Comment

None.

LITIGATION REPORTS - David Niss, Legal Staff, LSD

00:16:32 Mr. Niss discussed his litigation report dated September 22, 2009, regarding the suit by the Montana Police Protective Association against the Public Employees' Retirement Board and also discussed Terry Teichrow's suit against the Board for his alleged wrongful termination as Executive Director of PERB (**Exhibit 14**).

Mr. Niss discussed his second litigation report dated October 5, 2009, regarding Mr. Jaksha's appointment for a position as a law enforcement officer (**Exhibit 15**). Mr. Niss discussed options that the committee should look at and made a recommendation that Option 6 is the best one to take.

Questions

00:29:56 Sen. Tropila wanted the record to show that Mr. Jaksha is a firefighter and not a police officer.

Motion

00:30:25 Rep. Ingraham **moved** to send a letter to the PERB requesting them to review the issue and see what PERB's legal counsel might recommend if SAVA should be doing something with that issue. The motion passed unanimously.

Discussion

00:31:36 **Melanie Symons, Legal Counsel, Montana Public Employees' Retirement Board**, said that they had submitted this question to their actuary, who gave them documentation regarding the increase in normal costs as a result of this decision. She said that they are limited in what documentation they can give the committee because they are before the Human Rights Commission on this issue.

00:32:10 Sen. Tropila asked Rep. Ingraham if she would like to withdraw her motion since this issue is in the process of being resolved. Rep. Ingraham said that she would but requested a written update when it becomes more concrete.

Sen. Tropila asked Ms. Symons if she could do that. Ms. Symons said that they can give the information from the actuary at this time.

00:32:44 Sen. Balyeat asked if Ms. Symons could explain why there is an increase in normal costs. Ms. Symons said that it is because of the disability provisions in the firefighter's system.

00:34:01 Rep. Hendrick requested background information to give proof to the testimony that if you are 35 years and older, you are more prone to become injured. Ms. Symons said that they have a contract with doctors for their disability claims and they might refer that question to him. She also said that that request could also go to the State Firefighters' Association.

Public Comment

00:35:11 **John Paull, President of Public Employees Retirement Board, and a firefighter in Butte/Silver Bow County**, said that the information that Rep. Hendrick asked for could be obtained from the International Association of Firefighters regarding the increase in disabilities after an increased age.

00:36:02 Sen. Tropila requested that Mr. Paull provide that information to the committee.

PRINCIPLES AND GUIDELINES FOR PUBLIC EMPLOYEE RETIREMENT SYSTEMS - Rachel Weiss, Staff Researcher

00:37:08 Ms. Weiss explained the Principles and Guidelines for the Public Employees' Retirement System (**Exhibit 16**).

Motion

00:43:20 Sen. Jent **moved** that no decisions be made on Principles and Guidelines at this meeting but that the committee should make a decision by the end of the committee's December meeting. The motion passed unanimously.

Public Comment

None.

**UPDATE OF PUBLIC EMPLOYEE RETIREMENT BOARD MEETING -
Roxanne Minnehan, Executive Director, PERB**

00:48:05 Ms. Minnehan provided a copy of the Public Employees' Retirement System's Actuarial Valuation to the Committee **(Exhibit 17)**. The valuation reports are also posted on MPERA.mt.gov, under Publications, Actuarial Valuations.

Public Comment

None.

**UPDATE/REVIEW REQUEST FOR INFORMATION (RFI)
PROCESS/RESULTS - Rachel Weiss, Staff Researcher**

00:56:13 Ms. Weiss discussed the Request for Information process and responses **(Exhibit 18)**.

Questions

01:08:47 Sen. Jent said that there is a threshold question on plan design that directly relates to HB659. He said that most of plan designs contain alternatives that has to be done by the committee. He asked Ms. Weiss if that is what she is talking about when using the term "plan design". Ms. Weiss said that this is the type of plan or plans that would be considered which the consultant could make recommendations for structuring a DC, DB, or hybrid plan. The consultants could also bring three different ways to change the current system to accomplish the goals as set out by SAVA.

Sen. Jent asked what the committee's charge is in HB659. Ms. Weiss discussed the documents listing the requirements of HB 659 **(Exhibit 19)**.

Proposed Timeline for an RFP - Rachel Weiss, Staff Researcher

01:20:38 Ms Weiss discussed a proposed timeline for issuing an Request for Proposals **(Exhibit 20)**.

Public Comment

01:29:56 **Roxanne Minnehan, Executive Director, MPERB**, said that the Board has not considered a hybrid system for their plans. The Public Safety Systems are a different breed. The Teachers' Retirement System has one career-oriented group, and the Public Employees Retirement System has

the DC plan choice as of 2002. PERS members have the choice for the DB or the DC plan. They also have the voluntary 457 plan so that they can have the DB plan and contribute to a voluntary 457 DC-type of plan.

Motion

01:34:34 Sen. Balyeat **moved** for a development of a Request for Proposal by committee staff that fits the requirements of HB 659 and is broad enough to look at all the different alternatives that was suggested in the RFI. The motion passed unanimously.

TEACHERS RETIREMENT SYSTEM'S RESPONSE - David Senn, Executive Director, TRS

01:35:53 Mr. Senn said that in terms of plan design, the consultant should work with the committee, and if time allows, have the systems do the actuarial work. It takes a lot of money to have new actuaries do the replication audit work. He recommended comparing plan designs with each other. The concept for money purchase or cash balance plans that the Teachers Retirement Board has thrown out will provide a different level of benefit at different ages than a modified DB plan.

01:40:19 **Kim Flatow, PERS**, expanded on what was said about PERS by Ms. Minnehan. The Public Employees' Retirement System is their largest pension system comprising of two components within PERS: the money purchase plan and the regular formula. Anything that the committee proposes or what the actuary puts forth, PERS would have to have their actuary review it as well, along with their tax counsel.

01:41:26 **Tom Bilodeau, MEA-MFT**, said consistent with HB 659, there are a number of aspects of restructure that the committee may want to look at. Mr. Bilodeau distributed but did not discuss MEA/MFT's document "Modified Professional Retirement Option for TRS". He recommended that the committee say yes to all three threshold questions presented on Ms. Weiss' "Summary of RFI Process and Responses".

01:45:26 **Sue Bartlett** said that time is of the essence. She said that the motion the committee passed is broader than what the committee can accomplish in this biennium and she would encourage the committee to focus on what

the law requires the committee to do. She said that the committee has obligations to provide opportunities for public comment.

01:52:09 **Edward Macdonald, Actuary, TRS**, offered to answer any questions regarding the process.

Questions

01:57:19 Rep. Ingraham asked Ms. Flatow to clarify which systems are doing fine and why some are not having problems. Ms. Flatow said that part of it is the fact that there are different funding sources for some of the smaller systems. Ms. Minnehan said that the PERS, Sheriffs, and Game Wardens are in trouble. They had reduced their GABA at that time and increased contributions.

02:00:53 Sen. Balyeat said that Ms. Flatow mentioned the percentage contributions. Are those based on the percentage of the salary? Ms. Minnehan said that it is based on compensation. Ms. Flatow said there are some differences between PERS and the two Public Safety systems that have the 29% and the 32%. Those individuals do not pay retirement contributions on any overtime, comp time, holiday payments.

02:03:41 **Doug Neil, Political Director for Montana State Firemen's Association**, addressed several issues:

- the state's contribution into FURS;
- where the funds come from;
- the lawsuit over the age limit for a firefighter;
- FURS has the largest employee contribution of any of the systems; and
- the age limitations that are utilized by the armed services and the police force.

Committee Discussion

02:12:44 Ms. Weiss asked the committee several questions:

- does the committee want to focus only on the Teachers Retirement System and the Public Employees' Retirement System;
- is the committee issuing an RFP for plan design consultants to work with the system actuaries; and

- does the committee want to work with the plan design consultant to set specific goals.

02:21:00 **Tom Schneider, Montana Public Employees Association**, said that you cannot say that what you do with new employees will have no effect on the funding of the retirement systems because part of the \$2 billion that you are concerned about has to do with how you are going to pay benefits, not just for the people that work there now but going forward into the future. It does have a bearing on what's ultimately going to happen with the funding of the system.

02:28:46 **Jim Smith, Montana Sheriffs and Peace Officers**, said that the system is somewhat hampered by the fact that the only funding stream that is going into it are those of the members themselves and the local counties that employ them.

Public Comment on any topic

None.

Discussion on possible meeting dates

02:35:31 Ms. Weiss said work schedule anticipates April 22 and 23 as their meeting to review nonagency proposals to change the retirement systems as required by statute. It would be helpful if the committee set a deadline for submissions to staff so that she can prepare those for the committee. That deadline would be March 31. With the committee's permission, she would notify all various stakeholders.

Motion

Rep. Hendrick **moved** that the deadline for submission of nonagency proposals be set for March 31, 2010. The motion passed unanimously.

02:36:40 Ms. Weiss said that the second part to that is that June 24 and 25 would be the meeting to review the agency proposals. Ms. Fox prepared a handout discussing the procedures for interim committee review, request, and drafting of agency legislation (**Exhibit 21**). She said that if OBPP has any agency submissions, to get them to staff by May 28, 2010.

Public Comment

None.

02:37:32 Rep. Mehlhoff requested that input from the Veterans' Affairs be put on the agenda for the next meeting.

02:38:52 **Board of Veterans' Affairs Update - Sen. Tropila**

Sen. Tropila gave an update on the Board of Veterans' Affairs:

- The Board is presently looking for some land in southwestern Montana to build another hospital.
- Stand Downs were held throughout the state for the veterans and were considered a success even though they did not get enough equipment, boots, shirts for the veterans who are homeless.
- The Vet2Vet Program is going well. The PTSD problem in Montana is well accepted and on a national level, they are trying to emulate what Montana is doing with their PTSD program.

Adjournment

02:40:41 With no further business before the committee, Sen. Tropila adjourned the meeting at 11:42 a.m.

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