



State Administration and Veterans' Affairs Interim Committee
60th Montana Legislature

SENATE MEMBERS
KELLY GEBHARDT
VERDELL JACKSON
LARRY JENT
CAROLYN SQUIRES

HOUSE MEMBERS
GARY MACLAREN--Vice Chair
FRANKE WILMER--Chair
PAT INGRAHAM
VERONICA SMALL-EASTMAN

COMMITTEE STAFF
DAVE BOHYER, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

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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October 20, 2007

Room 102, Capitol Building
Helena, Montana

COMMITTEE MEMBERS PRESENT

REP. FRANKE WILMER, Chair
REP. GARY MACLAREN, Vice Chair

SEN. KELLY GEBHARDT
SEN. VERDELL JACKSON

REP. PAT INGRAHAM

COMMITTEE MEMBERS EXCUSED

SEN. CAROLYN SQUIRES
REP. VERONICA SMALL-EASTMAN
SEN. LARRY JENT

STAFF PRESENT

DAVE BOHYER, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The committee passed a motion to exclude Chapters 22, 26, 27, 35, 36, 37, and 38 of Title 13 from the scope of the HJR 46 Study.

CALL TO ORDER AND ROLL CALL

00:01:51 Rep. Wilmer called the meeting to order at 8:38 a.m. The committee secretary noted the roll. Sen. Jent, Rep. Small-Eastman and Sen. Squires were excused.

Overview of the Development and Status of Montana's Public Employees Retirement Systems - Dave Bohyer, Lead Researcher, LSD

00:03:55 Mr. Bohyer gave a presentation of the development and status of Montana's Public Employee Retirement Systems (**EXHIBIT 1**). The presentation reviewed the establishment of Montana's nine defined benefit retirement systems and two defined contribution retirement systems for public employees, and important statutory changes to the systems.

Questions

00:18:13 REP. INGRAHAM wanted to know why the members on the TRS Board did not have to be approved by the Senate while all other boards do. Mr. Bohyer said that Senate confirmation was not statutorily required prior to March 27, 2007. He said that the TRS Board is not the only board that does not receive Senate confirmation, but it is one that has significant duties to the taxpayers and stakeholders.

SEN. JACKSON asked Mr. Bohyer why new employees were not put on the Defined Contribution Plan. Mr. Bohyer said there were different philosophies on what type of retirement plan should be offered to public employees. There was one philosophy that said that public employees should be able to guide their own retirements; i.e., the Defined Contribution Plan. The other philosophy was that the Defined Benefit Plan was a good plan for employees who had a career with a public entity. Mr. Bohyer said that he had drafted a couple of bills for the 2007 Session to convert from a DB Plan to a DC Plan, but he did not think that any had made it out of the first committee that considered the bill.

REP. INGRAHAM asked if the startup loan for the PERS/DC Plan was paid off. Mr. Bohyer said that he believed that it had been paid off.

Principles and Guidelines for Public Employee Retirement Systems - Dave Bohyer, LSD

00:29:50 Mr. Bohyer said that the Principles and Guidelines were adopted by the 2005-06 SAVA Committee in June 2006. At the end of April 2008, the committee is scheduled to review non-state agency stakeholder proposals to change the

retirement systems. He said that prior to that time, the committee may want to update the document so that when the committee receives the proposals, each proposal can be measured against the Principles and Guidelines and staff, committee members, and others can try to determine whether or not each proposal adheres to the Principles and Guidelines.

Questions

00:36:11

REP. WILMER asked if the change of GABA in hiring time violated Principle IV. Mr. Bohyer said that the change of GABA did violate Principle IV. He said that it was an initiative from the Governor's Office which the Legislature chose to go along with it.

Trends and Best Practices in Public Employee Retirement - Dave Bohyer

00:38:46

Mr. Bohyer spoke on Trends and Best Practices (**EXHIBIT 3**) in Public Employee Retirement. He reviewed the following trends:

- Investment of retirement assets in nongovernmental securities.
- Imbalance of plan income and payouts.
- Increased scrutiny and oversight.
- The GASB 45 rule.
- The issuance of Pension Obligation Bonds.
- Shifting risk and liability.
- Linking future increases to governmental indexes (CPI).
- Close loopholes.
- Delaying the retirement age to benefit plans.
- Reducing the multiplier variable for future employee-members.
- Deferred retirement option plans or DROPs.
- Increase the contribution rates.
- Invest assets in government bonds or AAA corporate bonds.
- Nominal amount of investable retirement fund assets continues to grow.
- The growth in number of active, public plan members.
- The amount of disbursements from state and local plans that have increased.
- Mandates.
- Giving newly-hired employees the option to participate in either a DB plan or a DC plan.
- Delaying the age at which a plan member is eligible for full retirement benefits.
- Increasing the time period over which final average compensation is determined.
- Revising the actuarial assumptions for retirement plans.
- Contemplating instituting "hybrid" retirement plans.
- The changing demographics in the workforce.

Questions

01:08:35

REP. MACLAREN wanted to know what kind of investments are with proceeds from pension obligation bonds. Mr. Bohyer said that the Board of Investments could invest in the same asset classes that the Board invest all the other pension assets in but that Montana hasn't issued any such bonds.

Status Report on Actuarial Review - Scott Miller, Montana Public Employees Retirement Administration

- 01:10:06 Scott Miller, Attorney, MPERA, discussed the Summary of Actuarial Valuations **(EXHIBIT 4)** and the Teachers' Retirement System's Actuarial Valuation prepared by Mark Olleman and Craig Glyde **(EXHIBIT 5)**.
- 01:11:57 Sen. Tester came into the meeting and said that there are issues that will impact the active Army, Navy and Marines as well as issues that will impact the National Guards and Reserves. He said that if there are issues that come before the SAVA Committee that would require his help, to let him know. He said that the staff person to whom issues could be addressed is Bill Lombardi.
- REP. WILMER extended an invitation to Bill Lombardi to attend any of the SAVA meetings to discuss those issues.
- 01:13:00 Scott Miller talked about:
- the funded ratios of the various plans and how they've changed over the past year;
 - Calculated Contribution Rates;
 - contributions into PERS and the Sheriffs Retirement System that are set to sunset based on a triggering mechanism; and
 - whether or not there are triggers on the reduced GABA.

Teacher's Retirement System - David Senn

- 01:22:08 Mr. Senn distributed copies of the TRS Actuarial Valuation **(EXHIBIT 5)** to the Committee and discussed Section 1, Summary of Findings.

Questions

- 01:33:43 REP. INGRAHAM asked Mr. Senn if he or the Teachers' Retirement Board had looked at raising the retirement age and what the difference in liability would be. Mr. Senn said that the benefits for the group of retired and active members cannot be changed because the members have a contractual right to a level of benefits when they were hired.
- SEN. JACKSON asked if inflation could have an impact on the fund. Mr. Senn said that increases in salaries increases pension benefits, thus increasing liabilities. Inflation could also have a positive impact on investment returns.

Montana Board of Investments - Carroll South, Executive Director

- 01:37:53 Mr. South discussed the topic of assets, what they are and what they are not, in terms of pension funds. He also talked about the charts from the document "Fiscal 2007 Pension Returns" **(EXHIBIT 6)**.

Questions

- 01:49:33 REP. MACLAREN wanted to know what the R 2000 in Mr. South's last chart meant. Mr. South said that it stood for Russell 2000, which are baskets of stocks similar to the S&P, only a little broader. He said that the HFN FOF stood for

"Hedge Funds - Fund of Funds" investments which they currently are not in.

01:50:05 REP. INGRAHAM wanted to know why the Board of Investments did not invest in real estate. Mr. South said that at one time the Board was investing in the stocks of real estate companies. He said the former Chief Investment Officer recommended to the Board that the state get out of real estate and the Board got out at precisely the wrong time. Since then a new Chief Investment Officer was hired and investing again in real estate has been a priority, not stocks of REITs, but real real estate that you can go out and touch.

REP. MACLAREN asked Mr. South if the Board of Investments had a target as to a percentage that they wanted to get to in real estate. Mr. South said that the asset-liability study recommended up to 8% real estate and 10% alternative investments.

COMMENTS FROM STAKEHOLDERS

Montana Public Employees Retirement Administration - Roxanne Minnehan, Executive Director

02:13:03 Ms. Minnehan discussed the "Benefits & Drawbacks of PERB Administered Retirement Plans" (**EXHIBIT 7**) which highlighted the good and bad points in the retirement systems.

Questions

02:28:31 SEN. GEBHARDT said that he would encourage Ms. Minnehan to make the argument with the TRS on getting the best possible interest rate and at the same time protecting the retirement systems. If you have a guaranteed interest and the interest isn't generating that amount of revenue, you are losing money from the fund. Ms. Minnehan said that they will definitely look into that as much as they can.

Teachers Retirement System - David Senn, Executive Director

02:33:41 Mr. Senn discussed Retirement Plan Design (**EXHIBIT 8**) and what needs to be done for educators in Montana.

Questions

03:03:05 REP. MACLAREN asked Mr. Senn if the money purchase plan at retirement can be rolled out to an IRA. Mr. Senn said that the design plan from Texas, which he discussed, does not allow rollover and that he would not recommend that that provision be made available.

Montana Public Employees Association, Tom Schneider's Written Comments

03:03:32 Mr. Bohyer told the committee that the written comments from Tom Schneider, Montana Public Employees Association, had been included in their meeting packet (**EXHIBIT 9**). Mr. Bohyer said that Mr. Schneider told him that he would be happy to attend a subsequent meeting to answer any questions the committee might have for him.

Honorable Joe Hegel, District Judge and President, Montana Judge's Association

Mr. Bohyer said that Judge Hegel was unable to attend. Mr. Bohyer distributed Judge Hegel's written comments to the committee **(EXHIBIT 10)**.

Montana Police Protective Association - Jerry Williams, Executive Director

03:05:41 Mr. Williams provided written testimony on the concerns that the Montana Police Protective Association had with the retirement system **(EXHIBIT 11)**.

Montana State Firemen's Association (MSFA) - Doug Neil, Political Director

03:09:09 Mr. Neil said that for the 2009 Legislative Session, the Montana State Firemen's Association currently has five issues that they would like to address at the Legislature.

- Developing a line of duty death benefit for public safety positions.
- The DROP program.
- A PLOP program which is a Partial Lump-Sum Option Plan.
- Looking at compensation legislation to include overtime in the retirement calculation.
- Looking at the presumptive heart, lung, cancer, and occupational disease legislation.

He said that one of their biggest issues next session will be the fact that five members under the Firefighters Unified Retirement System did not receive the Guaranteed Annual Benefit Adjustment (GABA) election. The Board cannot allow those five members another one-time exemption. He said that they plan to bring legislation in 2009 to allow those five members the opportunity to elect into the GABA.

Questions

03:14:10 REP. INGRAHAM asked Mr. Neil to explain the presumptive heart, lung, cancer, and occupational disease legislation. Mr. Neil said that if a firefighter dies of a heart attack or stroke within 24 hours of completing a shift, it is presumed to have been job-related. They would like to include cancer in that presumption of job-related illness, so instead of that employee having to prove their case in front of an insurance company, it will be presumed to have been caused from the actions of their job and thus they would be eligible for the benefits of Workers Compensation. Mr. Neil said that currently 42 states and six Canadian provinces have some form of presumptive hear, lung, cancer, and occupational disease law. Currently the federal government is looking at a presumptive bill for federal firefighters.

University System Optional Retirement Program - Keven McRea

Written comments were provided to the committee **(EXHIBIT 12)** from Mr. McRae.

MEA/MFT - Tom Bilodeau

03:18:56 Mr. Bilodeau said that MEA/MFT would like to see support for the Voluntary Employee Benefit Association (VEBA) programs. He said that MEA/MFT would like some assurance that the pension programs are adequately funded and that

there is compliance with the intent of Montana's constitutional protection for adequate funding for public pension programs. He discussed the one-time only funding for PERS and TRS to bring unfunded liability levels back in check and to insure that for every current and future retiree, that those promised benefits will be delivered. Mr. Bilodeau discussed legislation described in his document Professional Retirement Option (PRO) for Educators, HB 338 (**EXHIBIT 13**).

Montana Association of School Superintendents - Jerry Pauli, Thompson Falls Public Schools

03:31:03

Mr. Pauli said that the reason he is testifying before the committee is because of the difficulty schools in Montana are having in finding quality teachers and administrators. He said that a base salary increase of \$15,000 to \$20,000 is needed to realistically compete in recruiting and retaining good teachers and administrators. He said that it will become clearer when the committee looks through his document "Everything Revolves Around Learning" (**EXHIBIT 14**) and reads the article from *The Missoulian* found at the end of his document.

Questions

03:46:30

REP. INGRAHAM asked Mr. Pauli in what way improving the TRS system would help educate children. Mr. Pauli said that keeping master teachers and administrators around to the age of 65, instead of 52, would improve the quality of education for the children.

REP. INGRAHAM said that the Legislature could look at the fiscal impacts of what Mr. Pauli is suggesting for the TRS system. However, considering the proposal is one thing, giving a blanket statement that SAVA could afford to do it is another thing. Mr. Pauli said that what is needed is an actuary to let us know why can't we do the things that some of the other states are doing.

Retired Teachers of Montana - Charlotte Thomas

03:50:11

Ms. Thomas provided written testimony to the committee (**EXHIBIT 15**).

Montana Association of Counties - Sheryl Wood

03:52:58

Ms. Wood said that employees in local government are contributing to the retirement fund and they are also withdrawing from the fund. There was a provision in the Public Employee Retirement Act that said counties were awarded the opportunities to provide a special levy for payment of higher employer contribution rates for benefit increases. That was capped in Initiative 105 and has not been restored since. She said that when the committee looks at the retirement systems, please do not shift the burden back to local government. MACo would support the VEBA bill and would ask that they have authority to levy at the full rate of inflation. Ms. Wood said that the report that Mr. Bohyer and Mr. Niss did was very good, that is was concise, thorough, and informative.

Missoula Retired Police Officers - Frank Cole

04:03:16

Mr. Cole said that the last time he had talked to the Committee, Ms. Simmons from the Public Retirement Board wanted him to sign a release so that they could review his Summary Judgment and he said that he would not sign a release. He talked about his case.

Sen. Jackson said that he was on the SAVA last interim and he was under the impression that Mr. Cole had gotten the retirement issue worked out. He asked Mr. Cole to tell the Committee what happened after Sen. Tropila took up this issue and met with the Retirement Board and reviewed his case. Mr. Cole said that Mr. Tropila was not fully involved with the case.

Sen. Jackson told Mr. Cole that the details that he is discussing is something that needs to be discussed in private. He requested that Mr. Cole give him written material with that on it, and that he work with Sen. Tropila on it. He said that at this time there isn't anything that the Committee can do.

Rep. Wilmer said that she would like Mr. Cole's information in written form to the Committee for distribution and discussion.

Association of Retired Public Employees - Leo Berry

04:15:49 Mr. Berry talked about a decrease in benefits where PERS benefits are taxed. He told the Committee that as public policymakers, they should try to set up a compensation system, including the retirement system, that will attract and retain high quality employees.

He talked about HB 131, a bill to increase employer contribution and limit the guaranteed annual benefit adjustment (GABA) at 1.5% for new PERS employees. He would like the Committee to look at how many years the unfunded liability would go up if 3% GABA was put in for everyone. He said that the Legislature should look at putting a trigger back in for GABA so everyone gets back up to the same level of GABA.

Mr. Berry distributed a document showing impacts on retirees' benefits (**EXHIBIT 16**). He said that the Association is interested in capping the increases of health insurance premiums for retirees. He said that he would like the Department of Administration to provide that information to the Committee so that they can come back with a proposal in April that might be workable.

HJR 46 Study on Election Laws - Sue O'Connell

04:20:39 Ms. O'Connell gave an update on HJR 46 (**EXHIBIT 17**). She talked about the issues of the study:

- whether county clerks and recorders should conduct school elections;
- whether school and primary elections should be combined and the date of election should be changed;
- resource and funding needs for administering elections;
- whether Election Day should be moved to Saturday to increase voter turnout and to make it easy for people to get away from work to be an election judge.

Ms. O'Connell requested that the Committee provide her with some direction on whether or not the Committee wished to pursue any of those issues she talked about.

She said that the MCA chapters that the HJR 46 work group decided to exclude from consideration are listed on the first page of her update. She said that if the Committee disagreed with the work group's decision, to let her know and she will

include those chapters.

Discussion on HJR 46 Update

04:23:55

Narrowing the Focus

REP. INGRAHAM said that she concurs that the MCA chapters Ms. O'Connell identified are outside the scope of HJR 46 and that those chapters are not going to affect the changes that are needed.

Cleanup and Clarification

SEN. GEBHARDT asked if the Work Group was going to go through and clean up the archaic language. Ms. O'Connell said that they will do that but these are things that the whole work group did not need to work on because they would not be looking at the substantive changes.

SEN. GEBHARDT **moved** that Chapters 22, 26, 27, 35, 36, 37, and 38 contained in Title 13, MCA, be excluded from the scope of the HJR 46 Study. The motion **passed** unanimously.

Election-Related Issues for SAVA Consideration -- Requiring County Clerks and Recorders to Conduct School Elections.

REP. INGRAHAM said that she would like to see a study done with some modifications under Title 13, MCA, because other elections are run with the schools on the school date.

Mail Ballot Elections

REP. INGRAHAM said that she would like to know more about "places of deposit" contained in draft legislation for Mail Ballot Elections. Ms. O'Connell said that that was to be reviewed by the work group and would be presented to SAVA if the work group approved the changes.

REP. WILMER directed the work group to study all four issues and report back to the committee.

Public Comment

04:54:44

Dennis Himmelberger, Representative from HD 47, said that NCSL has a conference in Aspen, Colorado, on election reform which fits in well with HJR 46.

Adjournment

04:55:18

REP. WILMER adjourned the meeting at 1:30 p.m. The next meeting will be November 30, 2007.

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