



Legislative Council

63rd Montana Legislature

SENATE MEMBERS

JEFF ESSMANN--Chair
DEBBY BARRETT
ROBYN DRISCOLL
CLIFF LARSEN
JON SESSO
CHAS VINCENT

HOUSE MEMBERS

CHUCK HUNTER--Vice Chair
BRYCE BENNETT
MARK BLASDEL
MARGARET (MARGIE) MACDONALD
JESSE O'HARA
GORDON VANCE

COMMITTEE STAFF

SUSAN FOX, Executive Director
TODD EVERTS, Legal Division Director
FONG HOM, Secretary

MINUTES LOG

October 25, 2013
Room 102, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select *Committees*, then *Interim*. Once on the page for *Interim Committees*, scroll down to the appropriate committee. The written minutes summary, along with the audio and video recordings, are listed by meeting date on the interim committee's web page.

Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

COMMITTEE MEMBERS PRESENT

SEN. JEFF ESSMANN, Chair
REP. CHUCK HUNTER, Vice Chair

SEN. DEBBY BARRETT
SEN. ROBYN DRISCOLL
SEN. JON SESSO

REP. BRYCE BENNETT
REP. MARGARET (MARGIE) MACDONALD
REP. JESSE O'HARA
REP. GORDON VANCE

COMMITTEE MEMBERS EXCUSED

SEN. CLIFF LARSEN
SEN. CHAS VINCENT
REP. MARK BLASDEL

STAFF PRESENT

SUSAN BYORTH FOX, Executive Director
TODD EVERTS, Legal Director
FONG HOM, Committee Secretary

VISITORS' LIST

Visitors' list (**Attachment 1**)

COMMITTEE ACTION

CALL TO ORDER AND ROLL CALL

00:06:29 Sen. Essmann called the meeting to order at 2:07 p.m. The secretary called roll. Sen. Larsen, Sen. Vincent, and Rep. Blasdel were excused.

AGENDA

00:08:04 Sen. Essmann discussed his concern regarding the September 12, 2013, Public Employees' Retirement Board meeting; the activities that had occurred at that meeting; and the issue of open meetings and public participation. He also discussed the subpoena that was drafted by Todd Everts, Legal Director.

Motion

00:19:00 Sen. Barrett moved that Legislative Council issue the subpoena prepared by Mr. Everts.

Committee Discussion

00:19:49 Sen. Sesso asked Mr. Everts on whom would the subpoena be served and what would be the intended action of the subpoena.

00:20:22 Todd Everts, Legal Director, said the subpoena is targeted to individual Public Employees Retirement Board members and staff, and the Department of Administration for the production and retention of documents related to the September 12, 2013, Board meeting.

00:21:41 Sen. Essmann said that the date for retention and production is set for the next scheduled Legislative Council meeting, January 8th.

00:23:36 Sen. Sesso said that he is not in favor of the motion nor issuing any subpoena and explained his reasoning.

00:25:35 Sen. Essmann said that his concern is that some of these records may not be in possession of the board but just individual board members.

00:27:17 Sen. Sesso responded and offered a different viewpoint.

00:29:05 Sen. Essmann said that his concern is for current and future retirees whose pensions are guaranteed obligations of the state of Montana and he felt that the actions of the MPERB members at their September meeting rose to a level above that of other agency actions and situations.

- 00:30:02 Rep. Hunter discussed his reasons for opposing the motion.
- 00:32:05 Sen. Barrett said she will support the motion because of the legislative history with the Board and how vital it is to state, county, and city employees.
- 00:33:16 Rep. Hunter asked, as a matter of record, if anyone, either on the Legislative Council or on the SAVA interim committee or as an individual legislator, had made a request for this type of information.
- 00:33:41 Sen. Essmann said that he had a conversation with Sen. Brown earlier regarding her requesting that information as an individual and as the chair of the SAVA committee.
- 00:35:45 Rep. Bennett confirmed that Sen. Brown did make that request to the SAVA staff for documentation of the communications and activities that occurred during that Board meeting. Rep. Bennett addressed the Sen. Barrett's motion and said that a subpoena from the Legislative Council is the wrong place and the wrong way.
- 00:37:18 Sen. Essmann said that it is important that the Board conducts its meetings in an open fashion and if communications occur that were not done in an open fashion, then those communications should be preserved so that the public can examine them. He asked if there were further comments from the committee.
- 00:38:20 Susan Fox, Executive Director, LSD, said that before there is a vote on the motion, public comment should be taken.
- 00:38:50 Rep. Hunter asked for public comment.

Public Comment - None

Vote on Sen. Barrett's motion

- 00:40:33 Upon a roll call vote, the motion failed 6-5, with Sen. Driscoll, Sen. Larsen (proxy), Sen. Sesso, and Rep. Bennett, Rep. Hunter, and Rep. MacDonald voting no; Sen. Essmann, Sen. Barrett, Sen. Vincent (proxy), and Rep. O'Hara and Rep. Vance voting yes. **(Attachment 2)**

ADJOURNMENT

- 00:40:45 With no further business before the Council, Sen. Essmann adjourned the conference call meeting at 3:35 p.m.

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