



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

SENATE MEMBERS

JOSEPH TROPILA--Chair
KEITH BALES
KELLY GEBHARDT
CAROLYN SQUIRES

HOUSE MEMBERS

RALPH HEINERT--Vice Chair
VERDELL JACKSON
RALPH LENHART
VERONICA SMALL-EASTMAN

COMMITTEE STAFF

DAVE BOHYER, Lead Staff
JOHN MACMASTER, Staff Attorney
FONG HOM, Secretary

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

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.

November 28, 2006

Capitol Building, Room 152
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. JOSEPH TROPILA, Chair
REP. RALPH HEINERT, Vice Chair

SEN. KEITH BALES
SEN. KELLY GEBHARDT
SEN. CAROLYN SQUIRES

REP. VERDELL JACKSON
REP. RALPH LENHART
REP. VERONICA SMALL-EASTMAN

STAFF PRESENT

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

Visitors List and Agenda

Visitors' list (ATTACHMENT 1)
Agenda (ATTACHMENT 2)

COMMITTEE ACTION

The State Administration and Veterans' Affairs Interim Committee approved action on SB 11, LCs 333, 288, 289, 285, 286, 287, 611, 608, 609, 610, 691. LC 618 was tabled.

TAPE 1A

CALL TO ORDER AND ROLL CALL

Sen. Tropila called the meeting to order at 8:35 a.m. The secretary took roll visually (ATTACHMENT 3). All members were present.

DAVE BOHYER announced the reappointment of Sen. Joe Tropila to Board of Veterans' Affairs by the Governor.

ADOPTION OF MINUTES

Rep. Heinert moved to adopt the minutes of May 12, 2006, and June 22, 2006. The motion **passed** unanimously.

PUBLIC COMMENT

DARRYL RUD, Executive Director, School Administrators of Montana, spoke on behalf of the Montana Rural Education Association and the Montana School Boards Association, on LC288. He said that it is a concern that LC288 would not address recruiting and retention of teachers and administrators.

CHARLOTTE THOMAS, President of Montana Retired Teachers Association, submitted her testimony (**EXHIBIT 1**) regarding the Teachers Retirement System.

TOM BILODEAU, MEA/MFT, commented on LC288. He said that the bill is an integral part of returning the TRS to actuarial soundness. He also noted that because the draft includes a 2% increase in employer contributions paid for by the state, there is no property tax impact. He said that allowing individuals to retire and continue to earn substantial post-retirement money in the same position that they left while receiving TRS benefits is a serious issue and needs to be remedied. He said MEA/MFT is in support of the bill as presented today.

ROGER HAGEN, Enlisted and Officer Association to the National Guard of Montana, thanked the committee for their work with the Department of Military Affairs on the bill drafts. He distributed the Montana Veterans' Long Term Care Needs Study (**EXHIBIT 2**) to the committee.

COL. JIM JACOBSEN, U.S. Army Retired Legislative Chairman for the Montana American Legion, spoken in favor of two issues: 1) LC 323, prohibiting the picketing of funerals; and 2) the One Stop Service Center resulting of a federal law contained in Title 53, chapter 2, implementing the federal law and establishing a state and local work force investment boards across the state.

RECOMMENDATIONS OF PROPOSED LEGISLATION

MR. BOHYER discussed the overview of process (**EXHIBIT 3**). He said that section 5-5-228, MCA, directs this committee to make recommendations on each proposal that affects the statutory provisions of any of the state's public employee retirement systems. The committee is also required to adopt principles and guidelines for the public employee retirement systems. The principles and guidelines were adopted in June. Mr. Bohyer discussed the form he had distributed to members, Retirement Legislation Decision Points to be used at their discretion as a decision tool .

LC 140 (EXHIBIT 4)

This LC was preintroduced by Sen. Cocchiarella, by request of Legislative Council, to revise the

optional retirement system membership requirement for employees of the Legislative Branch performing duties related to a legislative session.

Sen. Gebhardt **moved** to recommend the adoption of LC 140. The motion **passed** on a voice vote.

LC 333 (EXHIBIT 5)

This LC deals with school finance in that it changes the way that local governments are paid for the employer contribution to the retirement plans but does not have anything to do with the plan itself.

Sen. Bales **moved** to set LC 333 aside. The motion **passed**.

LC 288 (EXHIBIT 6)

This LC deals with the Teachers Retirement System. Mr. Bohyer said that David Senn, Executive Director, Teachers Retirement System, presented this issue in June, 2006. The draft includes an appropriation of \$100 million dollars as a one-time infusion from the general fund and another appropriation to cover the increased costs of the employer contribution for the state agencies who have members in the Teachers Retirement System and for the University System to pay the additional employer contributions for its employees.

SEN. BALES asked if the draft has language in it that would address the definition of full time service. Mr. Bohyer said the definition in LC 288 says at least 180 days in the fiscal year or at least 140 hours in a month. Sen. Bales asked if person works two months and has 140 hours in each month, are they then considered in full time service even though they may only work two months. MR. BOHYER said that that was an issue that he brought up with the staff of the Teachers Retirement Board and explained that their point was that it was meant to be at least 140 hours/month for 9 months of a fiscal year to reflect a school year and the draft as it is going forward has that clarified language in it.

PUBLIC COMMENT

TAMMY RAU, Deputy Director of the Montana Teachers Retirement System, said that LC288 is the TRS actuarial funding proposal. She said that this proposal includes amendments to both increase funding and reduce liabilities by increasing the supplemental contribution rate from 4.04% to 4.72% as well as close loopholes, change definitions of full time and part time, eliminate the statutory requirement that TRS contribute 4% interest, and eliminate the option of the Board to increase GABA to 3%.

Rep. Lenhart **moved** to forward LC 288 as a bill request. The motion **carried** with Sen. Gebhardt and Rep. Jackson opposing.

LC 289 (EXHIBIT 7)

This LC is a request by the Teachers Retirement Board to revise the Teachers Retirement System laws and is the Board's customary "housekeeping" bill.

Sen. Squires **moved** to forward LC 289 as a bill request. The motion **passed** unanimously.

LC 285 (EXHIBIT 8)

This LC is a request by the Public Employees Retirement Board to provide actuarial funding for

the Public Employees; and the Sheriffs and Game Wardens and Peace Officers Retirement Systems by increasing employer contribution rates. This bill draft also provides that an increase will not imposed if certain actuarial conditions are met and allocates a portion of the employer contribution to the PERS defined contribution plan to pay for the plan's start up loan, amends a number of sections to accomplish that, and makes the bill effective on July 1, 2007.

TAPE 1B

Rep. Lenhart moved to **approve** LC285 and the motion **passed**.

LC 286 (EXHIBIT 9)

LC 286 is an act that appropriates funds to repay in full the loan for the startup costs of the defined contribution retirement plan in the Public Employees Retirement System.

Sen. Bales **moved** that LC286 be adopted. The motion **passed**.

LC 287 (EXHIBIT 10)

This LC is a request from the Public Employees Retirement Board to generally revise the provisions of certain retirement systems by clarifying benefits and the guaranteed annual benefit adjustment in regard to disability retirement benefit and other issues.

The motion by Sen. Gebhardt to forward LC 287 as a bill draft **passed**.

LC 611 (EXHIBIT 11)

This LC is a Committee request regarding appointees to the PERB. Under the bill, the Governor's appointees to the PERB would be subject to confirmation by the Senate.

The motion made by Rep. Heinert to approve LC 611 **passed**.

COMMENT ON RETIREMENT POLICY

Amy Carlson, Governor's Office of Budget and Program Planning, said that they have a proposal that is different than the proposal of the PERB and that they are recommending a reduction in the GABA from 3% to 1.5% for newly hired employees (after July 1, 2007), to have a measure of fairness with TRS and have consistency across the board. She said that they do not yet have a bill draft for this proposal.

LC 618 (EXHIBIT 12)

The intent of LC 618 is to resolve the actuarial unsoundness within the Public Employees', the Sheriffs', the Game Wardens' and Peace Officers, and the Teachers' Retirement Systems by increasing the employer contribution rates for those systems and by making one-time contributions, clarifying definitions, establishing state policy with respect to TRS, requiring school boards to contractually limit compensation under certain circumstances, and establishing supplemental employer contribution rate for TRS employers.

Sen. Squires **moved** to table LC 618. The motion **passed**.

SEN. TROPILA asked that it be on the record that Sen. Bales left to attend the Legislative Finance Committee meeting.

Sen. Tropila said that he would direct staff to prepare the committee report on each proposal and would designate Rep. Jackson and Rep. Small-Eastman to review and approve the draft report. Mr. Bohyer said that this will be done prior to the bills being introduced by December 26th.

PUBLIC COMMENT

TOM BILODEAU, said that he is not clear on the procedure that they are moving forward here. Back in June there were a number of constituency groups that brought forward bill proposals. He said that MEA/MFT has two bills: one that would restrict post-retirement employment and one that would increase the payment to their members. To his knowledge, the Committee has not taken any action on those proposals, nor have they discussed them. He is not sure of the intention of the Committee on those two proposals.

Mr. Bohyer said that some of those bills are still in his office along with other bills that are yet to be drafted. He said that because the committee needs to react to a bill draft, there is nothing more for the Committee to do on them other than what was done on them in June. He said that those bills will be drafted and then put through the legislative process for possible legislation for the upcoming session.

TAPE 2A

OTHER PROPOSED LEGISLATION

Mr. Bohyer said that the Committee had requested five bills dealing with the Montana Administrative Procedural Act. He said each bill would need a sponsor and will be by request of the State Administration and Veterans' Affairs Interim Committee.

LC 608 (EXHIBIT 13)

This LC requires the state agency to state in its notice of proposed rulemaking the date, time and manner in which the agency gave notice of its initial rulemaking efforts to the prime sponsor of the implemented legislation.

It was **moved** and **approved** that Sen. Gebhardt be the sponsor of LC 608.

LC 609 (EXHIBIT 14)

This LC provides that an agency may not enforce, implement or otherwise treat as effective an administrative rule until after the effective date of the rule.

It was **moved** and **approved** that Sen. Squires be the sponsor of LC 609.

LC 610 (EXHIBIT 15)

This LC provides for the payment of the expenses of a private entity, group, or individual incurred in challenging the adoption, amendment or repeal of a rule proposed or adopted in knowing or willful violation of the Montana Administrative Procedural Act.

It was **moved** and **adopted** that Sen. Squires be the sponsor of LC 610.

LC 612 (EXHIBIT 16)

This LC would extend the time within which a petition may be filed with the District Court to set aside an agency decision made in violation of the public participation in government statutes in

Title 2, chapter 3, parts 1 and 2. The bill expands the 30-day time limit to say that the complaint must be filed within 30 days after the plaintiff became aware of the violation rather than 30 days after the violation itself.

It was **moved** and **approved** that Sen. Squires be the sponsor of LC 612.

LC 691 (EXHIBIT 17)

This LC amends provisions to the Montana Administrative Procedural Act, clarifies statutes regarding a poll of the legislature concerning Administrative Rules, and changes three sections of MAPA.

It was **moved** and **approved** that Rep. Heinert be the sponsor of LC 691.

OTHER DISCUSSION

Mr. Bohyer discussed the concerns of Mr. Frank Cole. Mr. Cole represents the Missoula Retired Police Officers. Mr. Cole had issues with the way the retirement benefits were calculated for those members of his association. Sen. Squires has indicated she will request two bills to address those issues and those bills are in the drafting process.

Mr. Bohyer said that he had misspoken on two items in the discussion of the process by which the Committee authorized the drafting of legislation. The first one is that the Committee did not authorize the drafting of legislation by entities unless they were governmental entities, so the drafting of legislation from MEA/MFT or MPEA were not authorized. Mr. Bohyer said that the Public Employees Retirement Board and the Teachers Retirement Board did have legislation proposed for the special session but that legislation was outside the call and therefore was not considered by the legislature last session.

Sen. Tropila thanked the members of the Committee for their good work. Sen. Bales thanked Sen. Tropila for stepping in and serving as chair of the Committee.

ADJOURNMENT

SEN. TROPILA adjourned the meeting at 10:45 am.

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