

PUBLIC EMPLOYEES' RETIREMENT BOARD

100 N Park, Room 201

Helena MT 59601

Board Legislative Committee Minutes

Tuesday, March 12, 2013

Chairman Terrence Smith called the PERB Legislative Committee meeting to order at 1:03 p.m. on Tuesday, March 12, 2013. Board Members that participated in the meeting:

Committee Members:

Terrence Smith, Chair

Scott Moore

Darcy Halpin

Bob Bugni

Dianna Porter

Staff:

Roxanne Minnehan, Executive Director

Melanie Symons, Chief Legal Counsel

Barbara Quinn, Fiscal Services Bureau Chief

Patricia Davis, Member Services Bureau Chief

Kate Talley, Legal Counsel

Jenny Weigand, Education Supervisor

Joshua Crone, Executive Assistant

Public:

Mike O'Connor, MPERA

Tom Schneider, AFSCME, MPEA

Diane Fladmo, MEA-MFT

Doug Neil, MSFA

Matt Norby, MSFA

Ole Hedstrom, Billings Fire Department

OPEN MEETING

I. Roll Call

Roll call was taken. Member Bob Bugni was present. Chairman Terrence Smith and Members Dianna Porter, Darcy Halpin, and Scott Moore participated via telephone. Board members absent: Melissa Strecker and Timm Twardoski.

II. Public / Member Comment

None.

III. Approve Minutes – March 5, 2013

The minutes from the March 5, 2013 Legislative Committee meeting were presented.

***Motion:** Member Darcy Halpin made a motion to approve the March 5, 2013 minutes as presented.*

Second: *Member Dianna Porter*
No public comment.
Vote: 5/0

IV. Executive Director Report

- a. HB 158 – Requires agencies to present proposed rules to interim committees

Sponsored by Representative Doug Kary (R), HB 158 requires an agency to present the substance of an administrative rule proposal to the appropriate legislative administrative rule review committee.

Melanie Symons, Chief Legal Counsel, stated HB 158 requires another step in our already lengthy rulemaking process. Any proposed rule changes would have to go to the interim committee, SAVA. With the infrequent meeting schedule of the interim committee, there would be a gap in time in which rules could be approved. Our process is already very cumbersome. Hopefully, HB 158 would be vetoed.

Chairman Smith asked whether anyone knows Representative Kary.

Ms. Symons replied affirmatively; the Representative serves on the House State Administrative Committee.

Chairman Smith inquired whether there were any positive attributes to HB 158.

Mike O'Connor stated the Legislature historically thinks there should never be administrative rules; they are tantamount to the executive branch overreaching. This attitude has been present in the Legislature for years.

Ms. Symons recalled the legislative session of 2003 or 2005, when it was required that the sponsor of a bill be notified of any tentative rule changes affecting his or her bill. Notice is sent at the inception of the adoption process and special notice is sent once the proposed rules are done. Legislators have done many things to ensure they are advised; MPERA has always complied.

Chairman Smith stated that HB 158 would slow down the rulemaking process and add extra levels of scrutiny. This bill will also change how the agency proceeds with the adoption of new rules. Chairman Smith is not against extra levels of scrutiny before rules are enacted.

Ms. Symons proposed that bill sponsors or committee chairmen could be added to an interested parties list prior to the adoption of any changes. Any rule changes could be sent to the interim committee, allowing for a timely response.

Public Comment: *Tom Schneider, AFSCME, MPEA, asked what the interim committee could do.*

Ms. Symons responded that HB 158 does not specifically state what the interim committee could do. The committee would have more power as an interested party.

Public Comment: *Mr. Schneider asked whether a proposed rule change could be stopped.*

Ms. Symons replied that the interim committee could ask for a vote by the entire legislature on any proposed rule changes.

Motion: *Member Scott Moore made a motion to oppose HB 158.*

Second: *Member Dianna Porter*

No public comment.

Vote: *4/1, Chairman Smith voted nay*

b. Review of House Joint Select Committee on Pensions

Roxanne Minnehan, Executive Director, reported on the March 12, 2013 meeting of the House Joint Select Committee on Pensions.

HB 338 passed with three amendments. This bill would create DC plans for all retirement systems. The three amendments were:

- To not suspend the GABA in JRS, since that system is actuarially sound and is more than 100% funded.
- To reinstate the GABA in the other systems when they are 100% funded. SAVA would monitor this.
- To eliminate the General Fund money if the GABA is found invalid in the courts. The funding to fund the DB plan would be eliminated.

All amendments passed unanimously. HB 338 passed along a party line vote, 8 to 4.

HB 454, the Governor's pension reform bill, passed with two amendments:

- Senator Jent's amendment is to have a sliding GABA for new hires. If the amortization period for each system was to exceed 25 years, the GABA would be reduced by 0.1% for each year the system exceeded the 25 year limit.
- Senator Cook's amendment is to have a sliding GABA for all existing members, both active and retirees.

Both amendments passed unanimously. HB 454 passed 7 to 5.

Chairman Smith asked about the sliding scale GABA; just how would it slide?

Ms. Minnehan explained that this sliding scale GABA would only apply to existing members; new hires are addressed in Senator Jent's amendment. Senator Cook's amendment would limit the GABA to 1% for members hired before July 1, 2007 and 0.5% for members

hired on or after July 1, 2007, but before July 1, 2013 if the retirement system liabilities are less than 90% funded.

SB 333, Senator Arthun's cash balance bill, passed as amended 12 to 0. Senator Arthun introduced four provisions in one amendment; they were passed unanimously.

Member Bugni asked if a new fiscal note would be requested.

Mike O'Connor replied that a new fiscal note will be requested with the amendments that have passed. With this cash balance plan, the costs will go up.

Ms. Minnehan reported the following bills were tabled: HB 96, HB 175, HB 234, HB 382, and SB 82. HB 97, sponsored by Franke Wilmer, passed unanimously.

Ms. Minnehan stated Senator Lewis said he had taken a lot of criticism for not addressing and coming up with a committee bill. He stated there was no way with the competing bills to meld them all together; he was leaving it up to the legislature to decide which way to go with all these bills and make a policy decision.

Ms. Minnehan stated that the bills that passed out of the Joint Select Committee on Pensions would go to the House and there would be a hearing or they could go straight to the floor.

***Public Comment:** Mr. Schneider stated House bills can go to committee and the committee can send them to the floor without a hearing. The Speaker can send bills straight to the floor. In the Senate, a bill must go through a committee. Again, I'm assuming there would be a hearing.*

Ms. Minnehan stated that there would be no meeting of the Joint Select Committee on Pensions on March 14, 2013. All valuations will be updated and sent over the Office of Budget and Program Planning.

Ms. Minnehan added SB 376 passed unanimously in committee.

c. Other Legislative Action items

Ms. Minnehan stated HB 91 would be heard on March 15, 2013 by the Senate State Administrative Committee. HB 95 and HB 105 were heard on March 11, 2013 by the Senate State Administrative Committee. The Chairman said that there would be executive action taken on March 13, 2013 on the preceding bills.

Ms. Minnehan added that HB 122 was heard on March 8, 2013 by the Senate State Administrative Committee.

Member Bugni mentioned that SAVA had always spoken of contract rights and what they had to do to ensure that they did not violate the contract rights. It appears that they are not considering any General Fund money and that will weaken their case with the contract

violation. It is surprising that if they were going to test it, that they would not place at least a small sum of General Fund money in there, if only to strengthen their case. Chairman Smith asked if any more had been heard from the Pew Research Center.

Ms. Minnehan remarked that Pew was mentioned in an opinion piece that appeared in the Independent Record authored by Richard Dreyfuss, senior fellow at the Manhattan Institute's Center for State and Local Leadership.

d. Bill Status Reports

1. HB 53 – Revise SAVA statutory duties – *No Position*
2. HB 80* – Authorizing peace officer status for corrections criminal investigators – *Neutral*
3. HB 175* – Include dispatchers in the SRS – *Support*
4. HB 234* – Revise definition of compensation in MPORS & FURS – *Support with amendment*
5. HB 282* – Constitutional amendment regarding public employee retirement systems – *Neutral*
6. HB 311* – Revise what educational and retirement savings is exempt from civil judgment – *Support*
7. HB 329 – Prohibit state employees from being lobbyists – *Oppose*
8. HB 336 – Generally revise HPORS laws – *Neutral*
9. HB 338 – Provide funding for pension debts, all new hires to DC plan – *Oppose*
10. HB 382* – Provide coal tax funding for actuarially unsound retirement systems – *Support*
11. HB 454 – Public funding for the PERS-DBRP – *Support*
12. HB 461 – Increase pension for certain volunteer firefighters – Relief Assns – *Neutral*
13. HB 476* – Add cost of living adjustment for volunteer firefighters – *Oppose*
14. HB 482 – Generally revise laws related to the BOI to create a state bank – *Oppose*
15. HB 532 – Revise income tax using a flat tax rate and a tie to federal taxable income – *Neutral*, unless impacts IRS qualification
16. SB 82* – Require PERS new hires to be in DC plan – *Oppose*
17. SB 193 – Increase game warden pay with increased nonresident wildlife conservation fee – *Neutral*
18. SB 227* – Eliminate pension eligibility for legislators – *Oppose*
19. SB 261* – Require legislator election each term concerning participation on PERS – *Oppose*
20. SB 333 – Establish cash balance benefit tier in TRS & PERS for new hires – *Oppose*
21. SB 353* – Establish qualifications for PERB/TRB – *Oppose*
22. SB376 – Executive budget proposal to include actuarial funding for pension systems – *Neutral*

*bill is dead – tabled and/or missed deadline for General Bill Transmittal

ADJOURNMENT:

There being no further business before the Legislative Committee, Chairman Terrence Smith adjourned the meeting at approximately 1:58 p.m.