

February 2, 1977

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the House Labor and Employment Relations Committee was held on Wednesday, February 2, 1977 on adjournment of the House in Room 428A of the State Capitol. All members were present.

The first bill to be heard was HOUSE BILL 406. The sponsor was Vice-Chairman Williams. This is a companion to HOUSE BILL 245, which was heard on January 24, 1977 by this committee and given a DO PASS recommendation. This bill will conform with the recent changes in the federal unemployment compensation laws. There were no other proponents; however, representatives from the Department of Labor were present and available for questions.

There were no opponents to HOUSE BILL 406. There were no questions. The hearing on HB 406 was closed.

HOUSE BILL 468, sponsored by Rep. Ellis, was then heard. This bill would help the logging industry to get a break on their unemployment insurance. The first proponent to speak was Gerald Neils, Montana Logging Association. At present they are unable to get group rates on their insurance. The major benefit to be achieved by the legislation would be the expertise that the carriers could bring to the logging contractors in the manner of safety programs; through this act they will be able to put into play a safety program. James J. Kozak, Loggers Association, then spoke, stating that currently Montana has only two safety consultants, and the problem is that they are only able to get to the larger loggers, while the smaller ones are the ones with the problems. At the present time, the Association doesn't have the money, expertise, or individuals available to approach all of these small companies. If there are less losses the insurance rates will go down. Ernie Post, Staff Representative for the Montana State AFL-CIO, stressed that this bill will enable the smaller operators to join together.

The only opponent to speak was Boyce Clark, Legislative Counsel for the Independent Insurance Agents of Montana; see prepared statement.

Rep. Ellis then closed, pointing out that the State Auditor Sonny Omholt was in complete accord with the bill, as was Norman Grossfield, Worker's Comp. Division of the Department of Labor. Questions were then asked. The hearing was then closed.

HOUSE BILL 429 was heard. Rep. Porter as chief sponsor expressed his support of the bill and turned the testimony over to the co-sponsor, Rep. Ramirez. The term "stoppage of work"

February 2, 1977

has proven to have a very clear meaning in the states that have adopted this type of legislation. (1) If the employer's place of business continues operations during a strike, then the employees are not disqualified from receiving unemployment and only if it is "stopped or substantially curtailed" does the worker become disqualified. This is a change that will eliminate that. If the current law stays on the books, it would be contrary to the basic purpose of the act. (2) The state should remain neutral in labor disputes. (3) This law is basically unfair because the employer is paying the taxes and in effect he is paying a tax to finance a strike against him. (4) The unemployment fund is in debt and we should eliminate payment of benefits which are inconsistent with the philosophy of the law.

The opponents then spoke. Jim Murry, Executive Secretary of the Montana State AFL-CIO, stressed that the subject was not strikes but rather it was lockouts. Claimants under the present law who are on strike in the traditional sense are disqualified from benefits. However, under present law there must be a "work stoppage". This bill suggests that lockouts be considered the same as strikes, and that is grossly unfair. This bill encourages the use of strike-breakers and prolongs strikes, because employers will be using such persons instead of negotiating in earnest. He then spoke upon the question of neutrality on the part of the state in disputes. A court decision has recently been handed down concerning Montana Ready-Mix Concrete Association vs. the Board of Labor Appeals. The claimants did not participate in the lockout and it was not in their interest. They were deprived of the opportunity to continue their employment because of the employers, and were ready, willing and able to work. There was no participation or interest in the lockout by the employees and they should have benefits for that reason. There is nothing neutral about cutting off unemployment compensation to striking workers.

Joe Rossman then spoke as a representative of the Montana Joint Council of Teamsters. This bill would defeat the purpose of providing unemployment benefits to people. Joe Crosswhite, Operating Engineers Union, brought up the point that a craft could go on strike, there is no picket line, and the rest of the crafts at the business place continue on with their work, until they cannot go on any further because of the absence of the striking craft. These other crafts should not be penalized.

There were no other opponents.

Representative Porter closed, stressing that the philosophy of the bill is not to work a hardship on any employee who has lost his job through no fault of his own. The concern is that the unemployment insurance fund is in the red and if this continues, it is conceivable that the employees will have no insurance at all. Questions were then asked. Rep. Ramirez explained that the choice not to put "lockout" in the statutes would not change any of those rules because "labor dispute" still means the same thing that it always meant and if the courts

February 2, 1977

choose not to consider that as voluntary unemployment then those people will still be entitled to benefits. Mr. Murry stressed that the court decision was based on the "work stoppage" provision of the law. Rep. Teague suggested that if on page 4, line 2 of the bill after the word "dispute", the words "with the exception of a lockout" were added, then the bill might be acceptable. Mr. Murry feels that the law already provides this type of protection as it stands. The sponsor asked a question of Fred Barrett - "Has the U. S. Department of Labor taken a stand on this kind of problem?" He replied that this bill is patterned after what the Department's Legislative Audit Committee stated. In answer to a question asked by Rep. Williams, Mr. Kansier guessed that about 1% or less of Compensation funds had been expended on strikers in the past. The hearing was closed.

The committee then went into executive session and considered the following bills:

HOUSE BILL 429 - Rep. Baeth moved that it DO NOT PASS, and Rep. Williams seconded the motion. Rep. Ellerd moved as a substitute motion that it DO PASS AS AMENDED. (A typographical error had been made in the title of the bill and this was the only amendment suggested.) Rep. Porter seconded the substitute motion. Discussion took place and the question was called for. The motion of DO PASS AS AMENDED failed 6 to 7 on a roll call vote. The original motion was then before the committee and it was mutually agreed upon to reverse the vote on the previous motion. HOUSE BILL 429 received a DO NOT PASS recommendation, as a result.

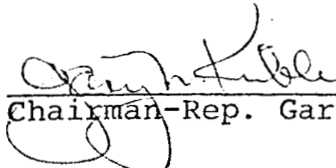
HOUSE BILL 406 was given a DO PASS motion by Rep. Lynch. Rep. Baeth seconded the motion; motion carried with Reps. Ellerd and Wyrick opposed.

HOUSE BILL 468 was given a DO PASS motion by Rep. Baeth, seconded by Rep. Kanduch. Motion carried unanimously.

HOUSE BILL 370 - Rep. Lynch moved that it DO NOT PASS; Rep. Dassinger seconded it. Motion carried with Reps. Ellerd, Wyrick, Turner, Sivertsen, Kanduch and Porter opposed.

HOUSE BILL 420 - Rep. Ellerd moved that it DO NOT PASS. Rep. Lynch seconded the motion. Rep. Ellerd then withdrew his motion, at which time Rep. Lynch moved that it DO NOT PASS. Rep. Baeth seconded Rep. Lynch's motion. Rep. Lynch explained that his main objection was that this bill would eliminate many construction workers unless the 1 1/2 times provision were changed to 2 times. Rep. Kanduch made a substitute motion to put this bill into a subcommittee and Rep. Teague seconded the motion. Question was called for and the motion carried with Reps. Brand and Dassinger opposed. Reps. Kanduch, Lynch and Ellerd were assigned to the subcommittee.

The meeting was then adjourned.


Chairman-Rep. Gary N. Kimble

Secretary