

February 18, 1977

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the House Labor and Employment Relations Committee was held on Friday, February 18, 1977 at 10:00 a.m. in Room 225 of the State Capitol. All members were present except Rep. Ellerd, who was excused.

The first bill heard was HOUSE BILL 479. The sponsor, Rep. Dassinger, began his testimony by saying that under current law all train engines have to be numbered. However, in non-centralized territory control areas, work is done according to engine numbers and the situation can arise in which another company might pass which has the same engine number and as a result an accident could occur if the crew was unaware of what had actually happened. The companies have done nothing to clear up this situation and therefore this bill was introduced. Kenneth D. Clark, United Transportation Union, then spoke. A few years ago between Havre and Great Falls a train wreck occurred because of this very problem. Every place there is a possible chance for human error, it is desirable to eliminate that if possible. Ernie Post then rose. Safety where workers are involved has to take precedence over the profits of an organization.

The opponents to HB 479 then spoke. The first, Gorham Swanberg, Montana Railroad Association, introduced the following speakers. C.J. Bryan, representing Burlington Northern, Inc., stated that the consolidated code forms the governing rules for railroad employees. It is their sole means for operation of trains. The particular case when it is necessary to meet or pass trains is covered by the information contained on the "train order"; this order is very explicit on what is to be done and it identifies the engines that are with each train. With the order, the crew proceeds to the meeting point and it has an obligation when the trains meet to make positive identification and this is considered the crew's duty. Identification can be made verbally; also color schemes are very different. Also, the engine numbers are only about 5 feet distant when the trains pass each other, and are easily visible. However, if identification has not been accomplished, one may make the train in question stop, or the dispatcher can be called. Also, the conductor of the other train could be called. If this bill were to be passed, the initials of the company would have to be added, and thus the size of the numbers would have to be reduced. Michael Voelker, also from Burlington Northern, then testified. He emphasized the importance of the consolidated code in covering this area. Rule 89 says that trains must be identified at meeting points. Rule 204 specifies that foreign line roads be prefixed by their letters. The cost to modify the locomotives would be approximately \$117,225 for materials and about \$50 per locomotive. Also, on occasion the lead locomotive is not the identifying locomotive. Gordon Jonasson, Milwaukee Road, spoke next, supporting the content of the previous opponents' statements. The railroad supervisors of the companies are vitally interested in the safety of their employees. He feels that it is dubious whether this bill will accomplish the purpose it sets forth or not. In essence, the problem will be magnified, by forcing the size of the numerals to be reduced. This is only a local problem, and passage of this measure would make it a national problem.

623 locomotives on the Milwaukee Road would have to be modified. This kind of a problem would be far more effectively dealt with internally.

Mr. Swanberg then spoke. The only reason for this bill is that eight engines have been creating this confusion. This bill would require that all the engines would be modified, not just the engines on the other lines.

Rep. Dassinger then closed. The companies are only concerned with moving trains; they are not interested in safety. He pointed out that Mr. Voelker said he was not worried about the money figure, but then complained about how much it would cost. Questions were then asked. Rep. Dassinger explained that not all states have as many lines operating within their borders, and as a result they do not all have the problems Montana has. The hearing was then closed.

HOUSE BILL 419 was heard next. The sponsor was Rep. Lynch. He turned the testimony over to Mr. Tony Softich, Administrator of the Labor Standards division, Department of Labor and Industry; see prepared statement. Ernie Post, Montana State AFL-CIO, then rose in support of the bill. He stated that this addresses a problem similar to the one in HOUSE BILL 75. He explained that this bill came about because of a problem in Billings, where employees had been left without wages; this bill would solve this type of problem. He cautioned that banks wouldn't be in favor of this bill, as it would put them "second in line".

John Cadby, Montana Bankers Association, spoke in opposition to HB 419. The direct cost of the bond will be passed on to the consumer. Also, the cost of credit will ultimately be raised. His main objection was the point that the lien or mortgage that protects the loan would be put in jeopardy. No one will make a loan for a new business unless he can have the protection of first mortgage of that collateral. He saw this hindering the flow of capital into new business ventures; this will make the banker more conservative in his lending practices; this will in turn be detrimental to the job situation. He suggested the alternative of instituting a procedure more similar to what HOUSE BILL 802 provides for. Another alternative would be to require that every employer file a bond with the commissioner of Labor and Industry, rather than requiring that the employer's creditor hold the bond.

The sponsor to HOUSE BILL 419 then closed. He suggested that Mr. Cadby was escalating the problem. In the first place, these employers must not be on particularly shaky grounds, because they are getting loans. Loans are preferable to secured notes. Questions were then asked. Rep. Porter warned that this bill would curtail risk capital.

HOUSE BILL 266 was heard. Rep. South as chief sponsor explained that this was simply an amendment to cover a very unique situation, where children are kept at a school, supposedly in a family-type situation and under that situation it would be ideal if the people called "cottage life attendants" could stay with the children for 24-hour periods. Mr. Floyd J. McDowell, superintendent for the School for the Deaf and Blind in Great Falls then spoke. It is their concern that the type of care and guidance be as much like a parent as possible, and not on an 8-hour basis. He doesn't intend to subvert any of the standards working people have gained through the years, but for many years the school operated on a basis of finding good parents who were widowed women or men that had the desire to help the children and to be surrogate parents. Under the provisions asked for in this bill, this same type of arrangement could be re-instated. He asked for an amendment to the bill redefining "cottage

life attendants" as "surrogate parents or child care workers".

The opponents to HOUSE BILL ²⁶⁶ ~~266~~ then rose. Tony Softich, Labor Standards, was first; see prepared statement. Don Judge spoke next. He was representing the AFSCME, AFL-CIO, and concurred with Mr. Softich's statements. The bill does not take into account that Boulder also has employees that fall under this definition. Where do these employees currently fit into the pay plan? This bill provides for an exclusion for one particular facility of state government from the provisions of the law, which is extremely discriminatory. The question of equal pay for equal time becomes more acute. If this bill is passed, those other agencies will also want such an exclusion. He has worked at the School for the Deaf and Blind, and he stressed that this bill was not the correct way of going about clearing up the problem. He urged the committee to make sure those people were paid for being responsible. Ernie Post, AFL-CIO, then spoke. He said that he was sure Rep. South had good intentions when he agreed to sponsor the bill. However, Article 5, Section 12 of the Constitution of the State of Montana is in conflict with what the bill is asking. Dave Stiteler, State Personnel Division, spoke next, saying that this measure would create a unique and special class of employee, when there in fact is no unique class. This bill would not be cost effective. Inadequate pay would increase turnover, which would as a result be against the philosophy of the School for the Deaf and Blind. Minimal payment for overtime would allow those people to be on the job for 24 hours; this might be an alternative the school could use. Duane Johnson, Administrator of the State Personnel Division, stressed that the persons who perform this function, which is one of the most important jobs of all, should not have the protection of the Wage and Hour Protection Act taken away, and that doing so would be a step backwards. The pay that these employees receive to begin with is not that great.

The sponsor then closed. He explained that he had introduced the bill because of his concern for the children. If you are talking about discriminatory law then compare these employees with the firemen, who work 24-hour shifts and are not paid time and 1/2 for those additional hours. He stressed that it was not his intention to hurt any state employee. Questions were then asked. Rep. Teague asked whether the Legislature could not put these people on a monthly salary like the firemen. Mr. Softich answered that Montana minimum wage does not address itself to overtime, only to those non-exempt employees. He could see no problem if the school could arrange for the employees to confine their activities to a 40-hour week. Rep. South informed the committee that the Governor's office had drafted this bill, and they said that this was necessary in order to do what they wanted to do. It was pointed out that the difference with firemen was that they were considered professionals. Mr. McDowell pointed out that the school had in the past contracted its employees, but when the pay plan went into effect they were unable to continue doing so. The employees had been paid on a 12-month basis. Mr. Softich informed the committee that there was no possible way to classify these persons as "professionals". The only way these people could be contracted would be under independent contracts. To fall into this category, each employee would have to be free from all control of the employer. Consequently, it is very dubious that the school would be able to go this route, either. As another alternative, the law does provide that if the employer is supplying board and room, he may deduct up to 40% of the employee's wages.

HOUSE BILL 668 was then heard. Rep. Waldron was the chief sponsor. This bill deals with homestead exemption; it does not have anything to do with the Governor's homestead tax relief. Under present law, a person has to make an application for the homestead exemption. If he doesn't do this, out of ignorance, the situation might arise in which a creditor could get a writ of execution which would empower the sheriff to sell the person's home. Debts should not be attached to the extent that they remove the person's home. He then proposed several small amendments. The bill would change the law so that instead of having to make a request and fill out the forms for a homestead exemption, it is automatically assumed that the homestead is exempted from the creditors, at least while the head of the household is still alive. The bill also attempts to deal with the farms and ranches, in that one can still get the exemption for the home, separate from the rest of the property. Walter Perry, Legal Services, spoke next. This bill would allow the homestead law to work in a more equitable manner. There is a form which lending institutions could use, which would insure a knowledgeable waiver. Otherwise they would be reluctant to accept the home for collateral. Woody Glenny, Director of Finances for the Rocky Mountain Development Council, spoke next; see prepared testimony.

There were no opponents to HOUSE BILL 668. The sponsor closed by saying that the Montana Association of Senior Citizens is in full support of this bill. Questions were asked and the hearing was then closed.

The committee then went into executive session. Rep. Baeth moved and Rep. Wyrick seconded that HOUSE BILL 668 DO PASS AS AMENDED. Motion carried unanimously.

Rep. Dassinger moved and Rep. Baeth seconded that HOUSE BILL 266 DO NOT PASS; motion carried with Rep. Wyrick opposed.

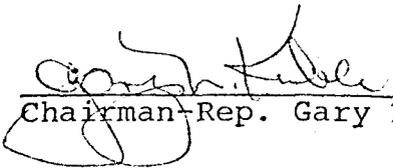
HOUSE BILL 419 - Rep. Kanduch moved that it DO PASS. Rep. Turner made a substitute motion that it DO NOT PASS; Rep. Porter seconded his motion. Discussion took place. Rep. Turner felt there would have to be some amendments to the body of the bill. Rep. Teague agreed. The concept of the bill was agreeable, however. Rep. Dassinger made a motion for all motions pending to pass the bill for the day; Rep. Williams seconded the motion. Motion carried unanimously.

HOUSE BILL 479 - Rep. Dassinger moved that it DO PASS AS AMENDED; Rep. Baeth seconded it. Discussion. The amendments would change the word "locomotive" to "engine" throughout the bill. Question was then called for and the motion carried, with Reps. Turner, Porter, Wyrick, Kanduch and Ellerd opposed, and Reps. Baeth, Teague, Dassinger, Williams, Lynch and Brand in favor.

HOUSE BILL 659 was then considered. Rep. Baeth moved DO PASS; Rep. Teague seconded the motion. Discussion took place. Rep. Porter said that this bill would work on the law enforcement budget and manpower of the small communities. Rep. Williams moved as a substitute motion that the bill be passed for the day, in order that this problem could be further checked into. Motion carried unanimously by those members present.

The meeting was then adjourned.

Secretary


Chairman-Rep. Gary N. Kimble