

March 9, 1977

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the House Labor and Employment Relations Committee was held on Wednesday, March 9, 1977 at 10:00 a.m. in Room 225 of the State Capitol. All members were present with the exception of Reps. Lynch, Kanduch, Ellerd and Dassingier.

The first bill to be heard was SENATE BILL 357. Senator Lee explained that this was another committee bill from the Senate Labor Committee. He then introduced to the committee Mr. Norman Grosfield, Division of Workers Compensation, Dept. of Labor. Mr. Grosfield stated that the bill would require new companies writing workers compensation insurance in Montana to write continuous coverage. At present, they write coverage from year to year and they have to give the Division notice of who they are covering. If they write the coverage on a continuous basis until the employer is cancelled or the policy is terminated, this will be cleared up. The interest groups involved with the insurance companies have worked with him on this format. One problem which had just been pointed out to him occurs on page 2, line 16. Apparently the word "until" should be "before". Glenn Drake, American Insurance Corp., then testified in support of the bill and the amendment.

There were no opponents to SENATE BILL 357. Senator Lee closed. Questions were asked. Rep. Turner had a problem with the cancellation notice time period portion of the bill.

SENATE BILL 358, another Senate Labor Committee bill, was then heard. Senator Lee also explained this bill. There have been problems with defining the term "casual employee". Mr. Norman Grosfield then took over the testimony. At present the law is so broad that the state in essence could have all of its students in vocational rehabilitation. Should a student be considered, in a general sense, as an employee of the school? In fact, the present law does cover them in this manner, in certain classroom settings. The Superintendent of Public Instruction's office is bewildered with this problem and suggested amending the law to clarify the situation. The domestic service deletion in this bill would create a problem; he had just had this pointed out to him. Another bill concerning this matter will probably not pass. He therefore suggested that on page 2, line 16 after the period the bill should have inserted in it "Coverage is not applied to household or domestic service.". Glen Drake then spoke; his association supports this bill, and the amendment.

Gordon Warner, State Superintendent's office, then spoke in opposition to the bill, until he had time to get some clarification on the proposed amendment. They are not asking for coverage of

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students in high school programs, or for athletics. However, they fear losing coverage for the vo-tech center students. These students are in classrooms but they are dealing with machinery, and other on-the-job types of activities also take place. \$41,000 was spent last year to cover those students in the five vo-tech centers. To get the same type of coverage, if they were to go to a private carrier, would cost about \$160,000, if they could get it at all. Therefore, the students would have to pay an excessive amount for coverage or some programs would have to be stopped to take care of the added expense. Jeff Janke, from the student's viewpoint, then spoke. He attends the Helena Vo-Tech Center. He agreed that the classes which are similar to on-the-job situations should be covered, but that industrial accidents should not extend to athletics. Bill Korizek, Director of the Helena Vo-Tech, then spoke. He also spoke for the other four vo-tech centers in the state. These centers do apprenticeship training; if their students in these same types of situations in the classrooms were not covered, it would be unfair. He also stressed that the vo-tech centers adhere to strict safety rules and regulations. The risk lies in the classrooms just as it does in the working world. Larry Key, Board of Public Education, added that if this bill would negatively affect the students, then the Board would like to go on record as opposed to the measure.

Questions were then asked concerning SB 358. At present, all vocational programs are covered, regardless of the educational level. The reason why the state coverage costs so much less is because workers compensation costs less. Thus far the \$40,000 figure has covered the state's risk. The chair then appointed a subcommittee to study the possibility of amending the bill further. Reps. Lynch, Williams, Porter and Kimble shall serve on this subcommittee, and were to report back to the full committee at the Friday, March 11 meeting.

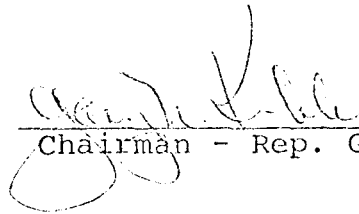
SENATE BILL 234 was then heard. The sponsor, Senator Lee, explained that he had introduced this bill at the request of the Dept. of Labor, Employment Security Division. Mr. Moody Brickett, attorney from the Employment Security Division, had submitted a paper explaining procedures of appeal in other states; Senator Lee at this time presented it to the committee. Fred Barrett, Administrator of the Employment Security Division, then spoke. This is not an earth-shaking matter. Thus far no problems have arisen. The bill would distinguish between the Division and the Board, with the matters that go to court. It would give the Division, in case of a real difference of opinion based on interpretation of the law by the Board of Labor Appeals, the opportunity and legal recourse to challenge that decision in court. So far there has only been one decision which was disagreed with strongly, and at

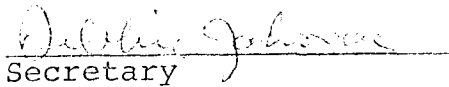
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present nothing can be done about this. Any appeal they would make, he assured the committee, would not be casual, but would be something they felt very strongly about. This bill clarifies the intent of executive reorganization.

There were no opponents to SENATE BILL 358. Questions were asked. Senator Lee reassured the committee that if the Board of Labor Appeals issued a decision, it would be final and binding unless taken to court. The hearing was closed.

The meeting was then adjourned.


Chairman - Rep. Gary N. Kimble


Secretary

VISITORS' REGISTER

HOUSE LABOR

COMMITTEE

ROLL 53 358

Date 3/9/77

SOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MEMORANDUM CONCERNING THE AMENDMENT OF SECTION 92-411,
R.C.M. 1947, CONCERNING THE DEFINITION OF EMPLOYEE
UNDER THE WORKERS' COMPENSATION ACT

The Division of Workers' Compensation proposes that Section 92-411, R.C.M. 1947, be amended by clarifying certain language in the section regarding the coverage of students in vocational rehabilitation programs.

It is suggested that certain superfluous language in paragraph (a) be removed. Such language concerns references to certain city, county and state employees. Such a delineation is not required and the coverage of these employees is adequately provided for in the definition of employer and employee under the Workers' Compensation Act. Also, certain language concerning the coverage of casual employees would be clarified and superfluous language regarding the coverage of household or domestic employees would be removed. Section 92-202.1 sets forth the coverage exception for household employees under the Workers' Compensation Act.

The Division proposes to remove the last portion of paragraph (b) that relates to coverage of individuals involved in vocational rehabilitation training programs. The current language is quite broad and appears to cover all students who are enrolled in a vocational rehabilitation program at all times. This language has created problems for school districts as well as the State Fund. The current language appears to require that students who are merely studying in classrooms must be covered. The Division does not believe that the Legislature intended for such broad coverage. The proposed section (c) would delineate when individuals enrolled in vocational rehabilitation and other on-the-job programs would be covered. The proposed amendment would specifically exclude coverage while students are on the premises of a public school. Thus, the questions concerning the coverage of students in the classroom would be clarified.