

March 14, 1977

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the House Labor and Employment Relations Committee was held on Monday, March 14, 1977 at 10:00 a.m. in Room 225 of the State Capitol. All members were present with the exception of Reps. Kimble, Ellerd and Teague. Vice Chairman Williams called the meeting to order.

SENATE JOINT RESOLUTION 38, sponsored by the Senate State Administration Committee, was heard. Senator Rasmussen presented the bill. He submitted to the committee copies of a letter from the Jefferson County Attorney which outlined the problem in the Fraud Control Division of the Employment Security Division, Dept. of Labor. He also presented xerox copies of a newspaper article dealing with the matter. Some years ago, the upper echelon in this division decided to de-emphasize this program. After the publication of the Elison report, the governor told Mr. Barrett to reinstate the program. There are many federal funds involved in this program and as a result SB 372 was not workable, and had to be killed. This resolution is a result of that action. Tom Winsor, Montana Chamber of Commerce, then spoke. There has been great concern among the employers of the state about this problem. He believes this is the desirable way to move at this time. George W. Bonnes, representing himself, stated that "This is safeguard legislation." William J. Baer, also representing himself then spoke; see prepared statement."

Bob Holding then rose and stated that he was neither in favor of nor opposed to this resolution.

The opponents to SJR 38 then spoke. Ernest Post, Montana State AFL-CIO, was first. He stated that he was not totally in opposition to this resolution. However, he objects to one small portion of the activities of the Employment Security Division being singled out. Employers should also be scrutinized. This is one more anti-labor bill that is aimed at the worker. He doesn't want to see fraud by employers or employees, and this resolution doesn't even talk about the employers. He passed around a book put out by the Division spelling out every section of the law. This material is already available. This resolution is only an attempt to legislate against personalities.

The sponsor then closed. This measure is as much for labor as it is for business. Overall, this resolution is a pretty watered down version of what it originally was. HOUSE BILL 401 is aimed at the employer aspect of this problem. Questions were then asked. Rep. Turner expressed the feeling that this bill did not even apply to the worker unless he was committing fraud. Mr. Post stressed that this aspect of the problem

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should not be receiving No. 1 priority, that employee fraud was not the biggest abuse going on. This resolution implies that everyone drawing unemployment benefits is a crook. In response to a question from Rep. Kanduch, Mr. Post stated that he believed about 50% more employers paid delinquent taxes than employees committed fraud. Senator Rasmussen, in response to a question from Rep. Brand, stated that he was not sure if other states required filing of a quarterly report. This resolution was not patterned after any other states' laws.

SENATE JOINT RESOLUTION 40 was then heard. The sponsor was Senator Mehrens. He turned the testimony over to Tony Softich, Administrator of the Labor Standards Division, Dept. of Labor; see prepared testimony. Ernie Post then spoke up in support of the resolution. A bill was introduced that he feels needs more study, and this resolution calls for such a study.

There were no opponents to SJR 40. The sponsor closed. Questions were then asked. Rep. Porter directed a question to Mr. Softich, asking him if there were any abuses at present which he was aware of. Mr. Softich replied that occasionally complaints are received by phone, but they have no personnel to investigate them. They do emphasize the federal law to the employers involved, however. He also pointed out in answer to a question from Rep. Kanduch that the state has no law allowing minors to work if written parental approval is received. However, federal law may provide for this. The hearing was then closed.

The committee went into executive session.

SENATE BILL 186 was discussed. There had been some questions concerning the grace period. Rep. Williams was told by Mr. Kansier, Dept. of Labor, that on all contributions of this nature there is automatically a 30-day grace period. Rep. Turner then moved and Rep. Lynch seconded that SB 186 BE CONCURRED IN. Motion carried unanimously. Rep. Kanduch said he would carry this bill on the floor.

Rep. Porter moved that SENATE JOINT RESOLUTION 38 BE CONCURRED IN. Rep. Wyrick seconded the motion. Rep. Lynch asked Mr. Post if the book he passed out during the hearing was available to anyone who was interested. Mr. Post replied that all files and records at the Employment Security Commission are open to the public. However, no names would be on them. The book is put together periodically. Mr. Post said that this resolution would direct that this book be delivered to the Legislative Auditor's office. Rep. Brand said that he would like to see an impartial investigation team take care of this matter. He doesn't see where this resolution will accomplish anything. Rep. Turner questioned whether the

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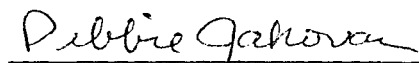
cases would be published unless fraud had been proven. Rep. Porter said that this resolution behooves us to be as cautious and alert as we can. If this resolution passes, it shows that the Legislature is eager to keep fraud at a minimum. Mr. Post, in answer to a request from Rep. Williams, described the personality conflict problem. The individual in charge of the fraud section of the Employment Security Division "pretty much had the run of the whole shop". He was investigating other people in the Department and he became the "snoop" of the whole Division. The Administrator of the Division asked him to do his job and report to him and tell him what he was doing. Personality conflicts arose as a result, between these two men. When the bill was introduced by Senator Rasmussen, they felt that it was aimed at Fred Barrett. Both of the men are still in the department, and this conflict still exists. This resolution will only drive the wedge deeper. Mr. Softich added that Mr. Barrett was an innocent victim in this case. Rep. Lynch then expressed support for Rep. Porter's motion. He didn't think the resolution would hurt anything. He didn't believe that the intent of the resolution was to slap the face of the Administrator. The question was then called for and the motion carried with Reps. Brand, Dassinger and Baeth opposed. Rep. Lynch agreed to carry this resolution.

SENATE JOINT RESOLUTION 40 was voted on. Rep. Lynch moved that it BE CONCURRED IN. The motion was seconded by Rep. Brand. Motion carried unanimously. Rep. Lynch agreed to carry this resolution, also.

The meeting was adjourned.



Chairman - Rep. Gary N. Kimble


Secretary