

February 21, 1977

The meeting of the Joint Select Committee on Employee Compensation was called to order at 8:15 p.m. in room 225 of the State Capitol Building by Chairman Senator Joe Roberts. The roll call was taken; a quorum was present; therefore, the meeting was started.

SENATE BILL 168

Senator Cornie Thiessen, District #27, sponsor of this bill, said that by law the Department of Administration has to negotiate group insurance, and they are having trouble. There are no restrictions presently for a group to leave the plan, it can pull out at any time. This creates a lack of stability and a problem for the plan being negotiated. Entry would be a simple majority but withdrawal from a plan would require 2/3 vote. This would tend to stabilize the bidding processes and give better coverage and premiums for the others that would stay on the plan.

Proponents:

Jack Crosser, Director of the Department of Administration, spoke as a proponent. He said that the bill was drafted after his department spent a couple years working to establish a good contract. He introduced Mike Young.

Mike Young, of the Insurance and Legal Division, said that the single most current complaint from the underwriters in Montana is that there is no idea how many people we will be looking at when the time comes to bid the plan. No company will take on a plan without figuring in an adverse situation to cover themselves. This bill proposes a simple majority vote to get into a plan, a 2/3 vote to get out, plus the consent of the Department of Administration.

Neutrals:

Tom Schneider, M.P.E.A., said that without knowing what would happen with the other legislation, he would be neutral on this bill. If it was decided that the legislature is simply going to increase the contribution from the present \$10, then this bill is necessary. They favor the state purchasing insurance for the employees, and to do that the group must be tightened down. If the bill which defines a component group is passed, it would be in conflict with S.B. 168. If the decision is to go with one rate for all state employees and one group for all of the employees, then this bill would produce more good than any other bill.

Opponents:

Don Judge, Montana Council No. 9, AFSCME, AFL-CIO, said that there were some beneficial elements in this bill but some other problems. They do support the concept of the Department of Administration having the authority to combine small groups into one larger group; thus, they support section 2 on page 2. Section 3 could be supported with amendments.

They feel that if an organization decides to combine with another component group, they have the right to be on a contract that is negotiated with the department. They also have the right to get out in the same way that they got in. If an organization finds a cheaper insurance plan, they should have the right to get in to that plan. With amendments the bill could be supported; without amendments, they would have to be opposed to it.

Lonny Mayer of the Retail Clerks Union, is opposed to S.B. 168. They feel the unions have the right to collectively bargain. Under the pay plan the public employees got a good increase, but the insurance premium increase more than made up for the wage increase. A simple majority should be required for getting in or out of a program. The "approval of the department of administration" clause should also be deleted, they feel. With the amendments, they could probably live with the bill, Mr. Mayer stated.

Joe Rossman, Montana Joint Council of Teamsters, also opposed the bill. Every year the carrier says they need an increase, and it is granted. There should at least be negotiations for that. The teamsters have seven different plans, but they are unhappy because it is taking so much of their take-home pay to provide the insurance coverage.

Phil Strobe, representing the Life Underwriters, was in agreement with Don Judge and the other opponents. He feels the people are entitled to the right to select. They suggest that S.B. 168 be defeated in support for the bargaining bills.

Questions:

Representative Driscoll asked what a component group is now. Mr. Young responded that the Attorney General issued an opinion in 1974 defining a component group as the departments and elected officials' offices in the state.

In response to a question by Representative Driscoll, Mr. Strobe said that a larger component group would probably get a better deal on their insurance premiums because if you prevent small groups from getting out there will be a larger group insured, and it would leave a broader group without as many high risk cases involved and considered, and the rates would be lower.

Mr. Strobe said that the requirements for the Blues in Montana are considerably less than for regular life, health and accident companies. They don't have to have the approval by the insurance commissioner or others.

Senator Fasbender said that if the bill was amended for a simple majority, it would defeat the purpose of the bill and it would not hold people in the present group. Mr. Johnson said that the Department of Administration does not have the authority to combine the component groups. If groups want to combine, it would give them the authority to do so; they can't do that currently. This bill would give them the right to get out if they wanted.

Senator Fasbender said that if an organization can get out as easily as they can get in to a program, there is no increase in stability. Mr. Johnson responded that this bill would give them a better idea of what the component group is that they are looking at.

Representative South asked for a clearer definition of what a component group is. Mr. Young said that all of the full-time employees or all employees scheduled to work more than 20 hours a week are a component group. There are about 25 different component groups now, the departments each constitute a group; the university system was another example given. The members of a component group may or may not be a collective bargaining unit. The membership of the whole group has to vote to get in to a plan, then another 2/3 vote is required to obtain the plan. Some component groups may be organized.

Representative South gave an example: There are some teamster union members in the Department of Institutions. By a 2/3 vote of the entire membership of the department could they belong to the plan? Mr. Young responded that only those in the group could. If the union members are collectively bargaining, all can join the union plan. There could be three or four teamsters in the union trust, however, that could collectively bargain for a different rate.

Senator Hims1 asked if there was an organization with 31% of the employees organized and 69% not organized, and if the organization voted to adopt the insurance program by the votes of the 69%, would it pertain to the whole group? Mr. Young replied yes, but the 31% can collectively bargain for whatever they want. Mr. Judge interjected that the teamsters can get teamsters' insurance, but they have to pay for it out of their own pockets. They can negotiate their own and can refuse the state's program. Mr. Young said that every component group, except the university system and the department of military affairs who have their separate plans, would be able to vote by a simple majority to come in to the present state plan. This bill will make it much easier to maintain a single group for insurance purposes. The collective bargaining bills are allowing collective bargaining persons who are members of a component group to break away from the statewide group and go out and bargain on thier own. This bill (S.B. 168) is not incompatible with that bill.

Right now, Mr. Young explained, a collective bargaining unit cannot collectively bargain under the state laws.

In response to a question from Representative Driscoll, Mr. Mayer said they cannot negotiate now to get their people in a health and welfare trust and have the state pay the portion of it. An Attorney General opinion states that they can go in to a health and welfare trust but the employees have to pay it out of their own wages. The Taft Hartley Act does not allow that; they are not able to negotiate the health and welfare benefits.

Representative Driscoll said that since it seems to be an attractice thing would they agree to having guidelines set out to allow for collective bargaining if it were done by five or six groups together.

Mr. Mayer was not in favor of this suggestion; they are in support of H.B. 346. Right now under the Taft Hartley Act, there has to be an employer contribution to have a health trust

In response to a question from Representative South, Mr. Mayer said there would be many different ways the benefits could be arranged. At least there would be the right to negotiate and get a better plan.

There being no further questions, the hearing on S.B. 168 was closed.

EXECUTIVE ACTION

House Joint Resolution 28

Senator Fasbender said that as liable as this resolution is, it would be difficult to act on it.

MOTION: Senator Fasbender moved that the committee pass consideration on H.J.R. 28 and let it die because of the transmittal deadline.

Discussion: Senator Roberts suggested that if consideration is passed, the sponsor (Rep. Fabrega) should be contacted so he could take the appropriate floor action if he so desires.

VOTE: The motion carried unanimously.

Note: Further action was taken on this resolution later in the meeting.

House Bill 346

Representative Driscoll asked about drawing collective bargaining units together by this bill by including that in the bill. Mr. Johnson indicated that the bill could be amended to on page 2, lines 10 and 11, to read "and employees represented by certified exclusive representatives or coalitions..."

The smallest bargaining unit now is three people; the largest, besides MPEA, is Warm Springs with about 600 people. Mr. Johnson indicated that there would be problems if a minimum size was established by this bill; it would end up in the courts he felt. Mr. Mayer agreed.

Representative Ellis asked how long the contracts run; Mr. Young said the statewide plan is annually negotiated from fiscal year to fiscal year, but the teamsters trust plan is perpetual.

Senator Roberts asked how this would work with the proposed budgets. Mr. Duane Johnson indicated that it would be the same as everything else; but he was not really certain he said. Now they don't have the authority, but Mr. Johnson said an emergency session of the legislature can be called.

Representative South asked if the university system is included because they do not want their employees to have the authority to bargain. It is the largest unit and they have a good plan. Mr. Johnson said it

would also deal with the university system because it would cover all public employees. This merely gives the right to collectively bargain and does not give any benefits he added.

In response to a question from Senator Roberts, Mr. Johnson said that it would allow the groups to negotiate the rate the state will pay, to go out of the state plan, or to do whatever they want.

Representative Driscoll asked what would happen to the state employees that want to stay with a plan, when others leave; Mr. Young said it would reduce the group, but there would still be a group over 5,000 members. House Bill 170 would make the remaining people one group.

Mr. Rossman was asked if this kind of incentive would bring three or four unions together to negotiate for other types of benefits; he answered that it would.

Senator Fasbender asked if H.B. 346 would pass, would it still be necessary to have another bill to define component groups. Mr. Johnson said that it would be necessary to define component group. A bargaining unit is a component group for the purposes of H.B. 346, he added. Component group is not clearly defined right now; it is not necessary for collective bargaining purposes, but it is for other purposes. Senator Fasbender asked if this bill could be properly amended and then they wouldn't have to pass any more legislation than necessary. Senator Roberts said that it is under House Bill 327.

Mr. Johnson stated that a valid management consideration would be the integrity of the state plan.

Senator Fasbender asked about amending H.B. 346 to take coalitions into consideration. Senator Roberts said that he was not sure that language would be necessary; S.B. 80 would take care of that. He added that this bill will be on the House floor, and he would not like to see that question be pressed. Changes could be made later, depending on what happens to S.B. 80. Representative Driscoll said that he has reservations about allowing collective bargaining in any form of legislation as it serves to further fragment it, but he would like to see a coalition in there, whether or not S.B. 80 passes. Representative South suggested that permissive bargaining could be put in there, as another option.

MOTION: Representative Driscoll moved to amend the bill on page 2, line 10, following "by" insert "a coalition of at least three for the purposes of coalition bargaining". Page 3, line 9 would require a similar change.

Discussion: Mr. Johnson said there would be real problems with that because they are dealing with six different unions; he felt it would be a mistake to make the amendment and it would defeat the purpose of the bill. The benefit level could be bargained as a coalition.

Representative Fabrega asked if S.B. 80 passes and maintains collective bargaining, would they still feel obligated to negotiate different units? Mr. Johnson said that the bargaining level could be bargained differently. The state isn't going to be in a very good position to pay the coverage until they are buying it all.

Representative Driscoll WITHDREW HIS MOTION.

Representative South said that the term "component group" is not even used in H.B. 346, why is it necessary to define it? Mr. Johnson said that H.B. 346 defines component group for the purposes of the bill as a group of people represented by a certified bargaining unit. Senator Roberts pointed out that the term is used in the insurance plan.

Senator Himsl asked why S.B. 168 refers to section 59-1604 and H.B. 346 refers to 11-1024? Mr. Young said that the section in title 11 was the original unit; when groups were combined in 1974, they put it under title 59. The combining of the employees is authorized in title 59.

Senator Fasbender hoped that the committee would keep all the options open. Right now the committee is not going to be able to decide what is going to be done. If H.B. 346 passes it may be necessary to define what a component group is just for the purposes of determining who will be in the health insurance plan. The definition as it is, he felt, will split up health insurance groups.

Senator Roberts agreed but said that H.B. 327 and H.B. 346 present two different approaches to the question of getting a collective bargaining unit into a union trust plan. If this definition is used, it gives every group the right to get out and get in to their own program. In H.B. 346, that question is a matter of negotiating. He felt the definition here is wrong because it does not include the definition of a component group as it is right now (state agencies and public officials).

MOTION: Representative South moved that the committee recommend a "DO PASS" for H.B. 346. The committee could add that if they agree on the content of H.B. 346, they still have the option of adding other things on to it to come up with one bill rather than three.

Discussion: Representative Driscoll indicated that he would support it if it will help fragmentation; but in the present form, it will make it worse. Senator Roberts again said that the problem of fragmentation is addressed in S.B. 80. This bill should be supported just to keep it alive and to see what happens to S.B. 80, Representative Driscoll concluded.

VOTE: A roll call vote was taken; the motion carried with a vote of 8-0.

House Bill 327

MOTION: Representative Driscoll moved that H.B. 327 receive a "DO NOT PASS" recommendation.

Discussion: It was felt that H.B. 346 has more included and a definition of a component group is arrived at; this definition is consistent with H.B. 346.

VOTE: A roll call vote was taken; the motion carried with a vote of 7-1.

Senate Bill 168

MOTION: Senator Fasbender moved that S.B. 168 receive a "DO PASS" recommendation from the committee.

Discussion: Senator Fasbender said that all options should be kept open; if other bills fail, it will be necessary for the department of administration to have authority. Senator Roberts said that this is inconsistent entirely with H.B. 346, and it will have to be revised if H.B. 346 does pass. Some amendments possibly should be worked out to make the two fit together.

VOTE: A roll call vote was taken; the motion carried unanimously.

House Bill 170

MOTION: Representative South moved that H.B. 170 receive a "DO NOT PASS" recommendation from the committee.

Discussion: Senator Roberts said that this bill addresses, in part, things in H.B. 183 and H.B. 346. Representative South said that the vehicle needed could be better done by H.B. 183.

VOTE: A roll call vote was taken; the motion carried unanimously.

House Bill 183

MOTION: Representative Tropila moved that the bill receive a "DO PASS" recommendation.

SUBSTITUTE MOTION: Representative South made a substitute motion that the bill be amended. The exact amendments were not available yet, but generally it should be amended to leave the contributions for local governments and school districts as they now are. Page 2, line 5, strike "but may not exceed". Page 2, line 8, should be changed to indicate \$20 the first year and \$30 the second and thereafter.

VOTE: ON THE SENSE OF THE MOTION: A roll call vote was taken; the vote was 8-0.

VOTE: ON THE MOTION THAT H.B. 183 BE RECOMMENDED "DO PASS AS AMENDED". A roll call vote was taken; the motion carried unanimously.

House Bill 293

MOTION: Senator Fasbender moved that the bill receive a "DO NOT PASS" recommendation from the committee.

Discussion; Senator Fasbender indicated a ceiling should be placed on sick leave. In response to a question by Representative Driscoll, Don Judge said the bill was introduced to prevent abuse of sick leave.

VOTE: A roll call vote was taken; the motion carried with a vote of 6-2.

House Bill 612

MOTION: Representative South moved that the committee give H.B. 612 a "DO PASS" recommendation.

Discussion: One problem currently is within the superintendent of public instruction's office. The original intent of the exemption was to give elected officials the right to exempt personal staff. Representative Fabrega asked if there had been an amendment offered for that on line 21, page 1, to change "department" to "board of personnel appeals"? Senator Roberts said he had suggested the amendment, but he had no strong arguments for it and Mr. Johnson of the Personnel Division had no arguments about it as written. The decision would be made by the department through the personnel division and the board.

VOTE: A roll call vote was taken; the motion carried unanimously.

House Bill 618

Representative South said that he did not think this committee could act on this bill because the hearing was postponed. Nobody volunteered to give testimony at the scheduled hearing, but several have indicated they would like to testify at a hearing on the bill. Representative South said that there might be other ways to correct the problem and at the same time resolve constitutional problems. He explained that there are problems in the university system that are just getting worse and must be resolved during the next session at the latest. As it is now, the superintendent of higher education selects a bargaining person to negotiate for all the employees. The non-academic staff are being promised more by this person than the executive plans allow for; there is a distortion of their promise and the payplan and the benefits. The responsibility of the buildings and the grounds would rest upon the legislature and the governor in the case of a strike and if the regents did not take the action required, so some changes must be made.

Senator Roberts announced that, hearing no motions for H.B. 618, the bill will be left in committee.

House Joint Resolution 28 - Reconsidered

The committee informed committee member and sponsor of H.J.R. 28 Representative Jay Fabrega of the action taken on this resolution.

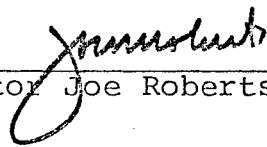
MOTION: Representative Fabrega moved that the committee amend the resolution, subject to the appropriate language being drawn up, to mandate the legislative council and the legislative finance committee to review the pay status and break in steps, taking into consideration the time these employees are putting in at this time.

Discussion; Senator Fasbender said he would hope that overtime is not being used to determine grade and step of employees. Representative

Fabrega said that it was the overtime that has caused the mandate of the review. The request is that the conditions under which they must work be taken into consideration and their grades and steps re-evaluated.

VOTE: A roll call vote was taken; the motion ("AS AMENDED, DO PASS") carried with a vote of 7-1.

The meeting adjourned at 10:30 p.m.



Senator Joe Roberts, Chairman

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