

April 2, 1977

The Joint Select Committee on Employee Compensation meeting was called to order at 8:00 a.m. in room 225 of the State Capitol Building by Senator Joe Roberts, Chairman. The roll call was taken and a quorum was present.

HOUSE BILL 834

Representative Carroll South, District #51, chief sponsor of this bill relating to the pay plan for state employees, testified that the appropriations necessary for this pay plan are within the bill. These will go to the Office of Budget and Program Planning and they will make the appropriations to the agencies involved. He explained that the university system has been taken out of this bill and put into the university budget.

This pay plan is different from the current plan in one primary respect; each employee will stay at the same step and grade and the entire matrix will be raised to compensate for the cost of living adjustments. The first year's increase has been computed by adding \$416, multiplying that by 2.35 percent and adding \$125 in health insurance premium payments. The second year's increase is \$458, multiplied by 2.35 percent, plus \$125 in health insurance payments. Longevity will be the same as two years ago. This bill does allow for merit promotions, using a step increase basis. Rep. South does not feel this destroys the equal work and equal pay concept; but management should have the perrogative to award for merit. They should also have the ability to hire above step one, which this bill provides for.

Mike Billings, Director of the Office of Budget and Program Planning, said he has some minor concerns with areas of the proposed pay plan. They do not agree with labor on all aspects of concern but they are close on some of them. He distributed the attached sheet of amendments and will have other amendments prepared for the committee later. In this pay plan, he explained, you don't advance steps annually as the present plan does. That method has lead to complications; but under this plan you would stay at the same step but get the same financial benefits as if a step increase was made. This is a total compensation matrix with salary and health insurance built into it. This in itself gives rise to some concerns for the Budget Office.

Their main concern is on page 7, section 5. The attorney for the Budget Office, IRS and other attorneys have a problem with what is tax free and what is not. Section 5 deals with the question of medical insurance and actual wages, and the choice of the employee for totally state paid medical premium or that amount in wages. This may be determined to be illegal, so a change of wording is required as set forth in the attached proposal. They want to preserve the rights to collectively bargain, Mr. Billings stated.

Section 6 provides management with the right and ability to award wage bonuses for outstanding performance. Presumably the rules would

be set forth by the Personnel Division; however, this is now written in the bill. The procedure should be as simple as possible, with all attempts made to alleviate problems that could lead to discrimination. Mr. Billings proposed that page 7, line 20, following: "budget.", the last sentence should be stricken from the bill.

Section 7 makes provisions for hiring individuals at a step higher than step 1. With the current restriction on hiring at other than step 1, there are problems, especially with the craft workers. The principle to "attract and retain qualified, competent personnel" is difficult under the current policy, especially in the medical and data processing fields. This section should be modified to provide management with the flexibility to hire at higher than step one if necessary and by rules promulgated by the Department of Administration. The exact language was not available at the time of the hearing.

Section 8 is quite similar to the section in the existing pay plan, but Mr. Billings would recommend amending page 8, line 13, following: "absence", strike: "not exceeding 3 months or by military service".

Section 9 deals with collective bargaining and those individuals covered by collective bargaining. The first pay plan was designed with the concept in mind of one pay plan for all. There is nothing that has been said that it be that way, it just came out that way, Mr. Billings said. This section should be reworded to make it possible for certain occupational groups to negotiate different pay plans, especially the craft workers and teachers. If Senate Bill 80 is unsuccessful, the flexibility to negotiate different pay plans is necessary. In order to be consistent with the dual system with collective bargaining involved, page 1, line 21, and page 2, line 3 should be amended to include "Except as provided in section 9 as for collective bargaining units, the compensation..."

Section 10 should be amended, Mr. Billings explained, to add to line 1, page 9, "collective bargaining statutes or negotiated contracts".

This plan does not cover the collective bargaining made to date, he concluded.

John LaFaver, Legislative Fiscal Analyst, stated it needs to be made clear what the main reason is for the pay plan or matrix containing the total wages as well as the health insurance benefits. The major difference between agreements is that some of the units have wanted higher health benefits and lower salaries, and others have wanted the opposite. The intent of the sponsors was to avoid a situation where we have one pay plan for every unit of state government. If all the health benefits were included in the matrix, then the salaries could be adjusted accordingly if an employee wanted higher or one or the other. He felt that it seems this bill is saying that the pay plan applies to everybody except someone covered under the collective bargaining statute. If that is the intent of the legislature, so be it, Mr. LaFaver stated. But the major controversy at the end of the last session was if they ratified agreements made to that point. The main thing is for the legislature to ratify its intent. The question will otherwise raise itself as to the type of pay raises that those people not included in the pay plan would receive.

PROPONENTS WITHOUT AMENDMENTS: None

PROPONENTS WITH AMENDMENTS:

Lonny Mayer, representing the Retail Clerks Union, spoke as a proponent to this bill if it is amended. See the attached sheet of proposed amendments. He indicated that Mike Billings addressed some of the amendments his union would like. He added that on the amendment regarding absences exceeding 3 months, that this phrase would create a problem for some one who could lose their longevity because of a pregnancy leave and medical disability leave. If the amendments are adopted, we would have a good pay plan before the legislature, he concluded.

Jim Murry, Executive Director for the Montana State AFL-CIO, indicated that their objections have been expressed by the other speakers. He did further comment on section 6, Merit Promotions. At the outset the state employees of the state AFL-CIO felt merit promotions should be deleted. They feel it distorts the pay plan and does not go with the equal pay for equal work concept. This will cause problems because a promotion may be given on political influences and other things besides performance. If that section must stay in, it should be subject to the collective bargaining process, Mr. Murry stated. This would pose a problem as to whether or nor enough money is being appropriated for this bill because if everybody meets the criteria established it would have to be paid.

Don Judge, Field Representative for the AFSCME, AFL-CIO, submitted the attached amendments to the committee. The only one not presented for consideration yet at this hearing is on page 8, lines 17 through 23 (his #4 amendment). They object to merit increases because it could be a "carrot held out over a head of an employer," he said. They can visualize some employees not being able to get proper increases and classifications because the funds were used for promotions and hiring above step 1; and possibly some vacancies would not be filled or would not be filled at the proper grade because of the lack of funding that could result from this. He stated that they would agree with all the amendments proposed by Mike Billings today. They do have a problem of negotiating under the current plan as the criteria does not fit all their members, especially the craft and blue collar workers. The current language in section 9 would preclude negotiating to get a pay plan to fit them. He also proposed that the proposed amendment for section 9 be amended to strike "and benefits" on line 2 of the attached sheet and to strike "or benefits" on line 6 of the section 9 amendment also. Mr. Judge also indicated that they have negotiated anniversary date increases which this bill does not allow for, but it does provide the money for that. AFSCME would support H.B. 834 if the proposed amendments are adopted.

Vince Bosh, representing the International Union of Operating Engineers submitted the attached testimony in opposition to House Bill 834 as introduced.

Jim McGarvey of the Montana Federation of Teachers, AFT, AFL-CIO, said that he has reservations about H.B. 834 because it does not exemplify the pre-budget agreement he signed with the state in negotiations.

While the overall dollar amounts are the same in the bill, it does not properly reflect the agreement concerning wages and insurance as agreed upon in the negotiations. He felt this bill does not retain equality. In section 6 and section 10 he expressed problems the union has stating he feels that the merit promotion section would violate the present collective bargaining statute which provides for representation by the exclusive representative.

Pat McKittrick spoke on behalf of the Montana Joint Council of Teamsters, #23. He agrees with Mike Billings' amendments and suggested that the committee also include along with the health insurance benefits those retirement benefits made through collective bargaining contracts, in order to insure that those are excluded from the definition of wages. This would be an important factor for both the employee and the state. He commented that John LaFaver has indicated that there might be a problem with the blue collar plan and this; that is not necessarily true because there is Senate Bill 80 which says that blue collar plans could be negotiated. The legislature has to approve the collective bargaining agreements because they have to appropriate.

Tom Schneider of the M.P.E.A. asked to hold the right to study the amendments of all other parties. He reported that his membership is "up in arms" about section 6 on merit promotions. The problems seem to be that we have no uniform system at this time to determine how it will be utilized and every department could use it differently, some properly, others improperly. Section 6 should be stricken or the rules should be made so this is negotiable. He had comments about the problems regarding section 7, New Hires. He felt that section 5 does create a problem in that employees could take health insurance until the last three years before retirement and then stop taking insurance to raise their salary upon which their retirement pay would be based.

Mr. Schneider responded to a comment made by Mr. McKittrick saying "we are going to dovetail this into Senate Bill 80 because it has not passed yet and hopefully it will not pass. Don't tie Senate Bill 80 to this bill." Mr. McKittrick responded that it is a very difficult problem because Senate Bill 80 as drafted is not supported but we are trying to help the legislators' job as best as we can.

Jim Roberts of the Teamsters #2 in Butte and the vice-president for the Montana Joint Council of Teamsters indicated problems with section 5 similar to other testimony. They support Mike Billings' amendments to the bill, and they will support House Bill 834 with the amendments suggested.

Individuals from Boulder, Galen and the prison stood in opposition of the bill as introduced; their names are on the Visitors Register.

Ken Luraas from Lolo, Montana, said that the Retail Clerks Union would support the bill as amended by the AFL-CIO.

**Closing Statement:** Rep. South stated that the merit promotion section was done at his suggestion but he does not think "it flies in the face of equal pay for equal work" because there could be two individuals doing exactly equal work but one may be doing much better or much more than the other. The employer should have the prerogative to grant

merit promotions to those who do excel. If the choice is making this negotiable or striking it from the plan, he would prefer the provision be stricken because a lot of state employees not represented by bargaining units would be left out in the cold.

QUESTIONS:

Senator Roberts asked Duane Johnson, Administrator of the Personnel Division, to give the status of agreements presently being negotiated. There are several areas now in which the collective bargaining agreements are not successfully completed, Mr. Johnson said; one is the blue collar unions. They have reached agreement on the plan itself and there has been testimony that it is an excellent plan; however, the allocations of money to that plan leaves them at an impasse now. Several other areas that are outstanding today; one is with one of the teachers unions representing a unit in the Office of the Superintendent of Public Instruction. In that particular set of negotiations, the legislature has not lined the jobs out to current levels. It presents a unique problem because if the legislature lined out a bargaining unit to current level, there would be no vehicle by which they could provide for growth.

Rep. South said that Mr. Johnson is talking about the regional special education centers. As they are currently integrated into H.B. 145 under the university system, there are no cost of living increases in there so they should be added somewhere else. Mr. Billings replied that there is money in this bill for the cost of living adjustments for them; there is money provided, if that is the intent of the committee.

Mr. Johnson stated that about 70% of the settlements have been made and they are negotiating with the others. Senator Roberts felt this puts the legislators in a difficult position if they are going home from this session without knowing what the product of those settlements would be. He understood that the legislature would review the negotiated settlements to see if they were at a level where they could fund and accept them. Mr. Johnson said that if the bargaining units could have been settled before the legislators left, it would have been great but it does not work that way. They have been putting in a lot of long hours and have been reasonably successful in their negotiations. They are limited, in the end, in their options in terms of money, which is determined by the legislature. Both Senator Roberts and Mr. Johnson said that they are concerned about ending the session without knowing what the outcome of the negotiations would be in terms of the blue collar plan. But Mr. Johnson said that the unions have a right to negotiate and the legislature has the right to acquiesce. A settlement may not be reached for quite some time; and as long as there is open collective bargaining, a time schedule can never be set up. Mr. Johnson said that if they exceed the amounts approved by the legislature, the Governor would have to call them back into session or they would have to call themselves back into session. Rep. South pointed out that they are bound because of the appropriation in this bill. He asked if there was a possibility that they could negotiate higher and then come in for a supplemental. Mr. Billings responded that that will not happen. They are going to leave the law in the pay plan, and would be facing lay offs rather than a supplemental request.

In response to a question, Mr. Billings said that they can project how much they will need throughout the year for a bargaining unit under this pay plan. If they go beyond that, they would be forced to lay people off.

Senator Himsel asked what the increases would be in the matrix, to which Rep. South said that he calculated it would be about a 10% increase for a salary of about \$7,000 a year; 6% increase at \$13,000 a year; and a 3.7% increase for \$40,000 a year income. The \$125 was included in these calculations.

The schedule here is really a floor from which they can negotiate or bargain up, Senator Himsel asked; Mr. Billings said no, that it is a schedule for a maximum that would be compensating for every employee. He then asked if the unions could bargain. Mr. Billings gave a qualified no answer, saying that there is a possibility of negotiating different pay plans and losing identification with the pay plan here.

Mr. Billings explained that the intent of the language for "overall compensation for other employees" is that any bargaining unit that would be negotiating the amount of money that amount would be allocated to their bargaining unit and it would be the same as if they were on this plan. It could be calculated the same as the state pay plan.

Referring to section 6, Meritorious Promotions, Mr. Billings commented that it would remain a management prerogative because they always are. The Department of Administration would promulgate the rules; the criteria that is negotiated by rules and those by bargaining units would not be very far apart.

The hearing was closed as there were no further questions or discussion.

#### EXECUTIVE SESSION

Senate Bill 80: Rep. South presented the attached amendments and stated that there is some concern by the university employees about their classification based on the amendments made by this committee at its last meeting. This does what we intended, but in a clearer way, Senator Roberts stated.

Rep. South MOVED the amendments pertaining to the university system be adopted. VOTE: The motion carried by a unanimous roll call vote (8-

Senator Roberts indicated he received the attached amendment from Pat McKittrick who discussed it with Senator Turnage who is agreeable to the amendment. This would make an agreement to arbitrate enforceable. Senator Roberts explained that this amends a whole section of law in Montana which is an amendment to Section 17-807. Any agreement to arbitrate could not be enforced in any court of law in Montana, even if both parties agreed to it. Any other collective bargaining agreement would be outside the scope of the public employees.

Pat McKittrick feels that this particular amendment should become law. This is the best part of S.B. 80; he added he was putting this in with reservations of his feelings about S.B. 80. If the arbitration comes

up in jurisdiction of Montana, it is not enforceable. If it is under federal law, it would be enforceable. This would amend Title 17.

Senators Fasbender and Himsl briefly pursued this matter further.

Rep. Tropila MOVED the amendment be adopted on page 15, section 10, line 6 of the third reading copy. VOTE: The motion carried unanimously by a roll call vote (8-0).

Senator Roberts indicated that it would not be necessary to take another vote on the bill itself as it was voted on previously. Senate Bill 80 will be reported out as an AS AMENDED BE CONCURRED IN recommendation.

The meeting adjourned at 10:00 a.m.

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Joe Roberts, Chairman

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