

April 5, 1977

The Joint Select Committee on Employee Compensation meeting was called to order at 9:00 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 346

Pertaining to public employee group insurance contracts, to clarify judicial branch participation; and to permit collective bargaining of the terms and conditions of group insurance.

Representative JoEllen Estenson, District #32, sponsor of H.B. 346 said it adds some new language to the legislation. She explained that the new language on page 2, lines 9 and 10 is incorporated for the purpose of collective bargaining. The additions made on page 3 deal with negotiating and contracting of group insurance plans. Changes were also incorporated to include the judicial branch in this bill.

Duane Johnson, Administrator of the Personnel Division, said this permits the executive branch and the individual unions in the process of collective bargaining to negotiate the level of the state's contribution and different carriers. This bill was introduced because in negotiating they found that trust funds were offering better benefits at lower premium costs than the state could offer. The unions have said that it should be so that they could negotiate for what would be best for the employees.

Don Judge, Field Representative for AFSCME, AFL-CIO, presented written testimony to the committee on February 17, 1977, when this bill was heard by the committee. They reaffirm their support for this bill as it is a product of collective bargaining. This may provide a vehicle for their employees and other employees to get good insurance at lower costs.

Pat McKittrick, on behalf of the Montana Joint Teamsters Council, stated his support of House Bill 346.

Opponents: None

Questions: None

House Bill 700

Concerning public employment relations, renaming the Merit System Council and the Board of Personnel Appeals, transferring certain functions, and requiring the establishment of a grievance procedure.

Representative Joe Brand, District #28, sponsor of House Bill 700 urged the committee to give it a favorable recommendation. It serves to start the process for a meaningful personnel system. It is also cost effective, he said. One amendment was made in the House which Rep. Brand supported; but this bill should not be "watered down" at all.

Proponents:

Duane Johnson, Administrator of the Personnel Division, submitted written testimony to the committee along with three proposed amendments and a copy of a telegram received from Charles P. Dooley, Chief, Intergovernmental Personnel Programs Division of the U.S. Civil Service Commission in Denver. There has been some feeling and some testimony that this bill was designed as a vehicle to build some impact for someone, Mr. Johnson said; but that is not true now or ever has been true. For that reason he submitted an amendment to take care of those feelings; this amendment is #1 on the attached sheet to amend page 1, line 22. He also stated that amendment #3 on his proposals is the exact wording proposed by Mr. Dooley.

Fred Barrett, Administrator of Employment Security Division, said that they had a just concern that a separate recruitment system was being set up. The plans for the overall recruitment and referral seem to distort the plan. By executive order, he stated, state agencies were told to use employment security resources as recruitment for the state agencies. During the first 18 months, the E.S.D. received 3,581 job openings, of which they filled 83% (2,981). The 23 local offices have provided recruitment sources and answer equal employment opportunity demands. He submitted the attached "Report on Job Placement Activity with Montana State Agencies by the Employment Security Division."

Joan Uda, Staff Attorney in the Office of Budget and Program Planning, asked that it be given a DO PASS recommendation. The Budget Office "truly supports this bill; it is a good bill and a good government bill." This legislation essential for what they feel should be done in personnel management for the state. A grievance system should be implemented, as there is no provision for that currently. They foresee more EEO and other grievances and feel that this bill will offer a means to look into and solve some complaints before they reach too high a stage. The functions should not be in the same agencies as they are now. This bill will merge the merit system function with the personnel system and give protection and benefits to other employees. It will also provide centralization of applications and registration for job application forms.

Pat Melby, Director of Social and Rehabilitation Services, is not present at this time, but his testimony will be offered later during this hearing in support of the bill.

Opponents:

Don Judge, Field Representative of the AFSCME, AFL-CIO, said that they have been totally confused on this bill. One of the contentions is that the Personnel Division has the right to prepare a grievance procedure, yet the Budget Office says they don't. There have been two different sides of this issue presented this morning. Regarding the recruitment of employees, he asked by federal funds are not going to be continued to be used for this as they have been in the past. Only an executive order demands that things be done, but it does not mandate the Personnel Division to use the E.S.D. for recruitment. This leaves a loophole because it doesn't say specifically in the bill that they must use the E.S.D., which has offices throughout the state. He also stated that they have a problem with the provisions for grievances for

non-union employees, and suggested that they be required to pay union dues for that service. The cost incurred by the grievance procedure, Mr. Judge explained, is borne by the union members as a whole. Would the union members help bare the cost of both union and non-union employees through their taxes? This is a matter for collective bargaining, he felt; Title 59, chapter 16 says that this is a negotiable item. Another area of problems is that H.B. 700 would allow the Personnel Division to make and administer all employment matters. The international union has told them that there would be conflicting statutes if this bill were to pass. The right to negotiate on wages and fringe benefits would conflict with the right of the Merit System Council to take care of this without collective bargaining. Mr. Judge also suggested the following amendment:

Amend page 13, line 3.

Following: line 2

Insert: "Nothing contained in this statute or any other statute governing the merit system of personnel administration for state employees shall deny, limit or infringe upon the right of any employee in state service or exclusive bargaining representative to engage in collective bargaining in accordance with Title 59, Chapter 16, R.C.M."

That is a section of law from the codes in the state of Delaware, he explained. Connecticut and Pennsylvania also inserted a similar provision in their laws. If this change could be made in the bill, AFSCME could support it. They would also remain opposed to the bill as it is because it doesn't state that the Department of Administration must or is mandated to use the E.S.D.

Tom Schneider of the M.P.E.A. said that he has one main problem with the bill, and the sponsor and the state know what that problem is. If page 8, line 24, paragraph 3 was changed it would probably handle the concern. His main objection with the bill is that we are now putting grievance appeals under a board of three people. The board was granted money in a former bill for classification appeals and it was clearly stated what it was created for. To divert from that bill would be to the detriment of the system, Mr. Schneider felt. His amendment provides that the new board would be five people, two from management and two from labor and one that is neutral. A three member board would not be able to conduct the job without all three members being present. That would mean a delay in the appeal process. The M.P.E.A. has real problems with anything that would further delay the appeals process. Another delay would be during the appointments and organization of a new board. The functions should be separated under the present board; the board of personnel appeals should be allowed to segregate their staff, and it would be more productive to segregate under one board.

Closing Remarks:

Representative Brand had to leave during the hearing and asked that Duane Johnson make the closing statement for him. In response to Mr. Judge's comments, he referred to page 10, line 20. He said that there are no new constraints placed on future local union dealings. The function of the Merit System Bureau would be under the Personnel Division,

which proposed and approved the organizational plan showing that as the only recruiting unit. Mr. Barrett has testified to this fact, Mr. Johnson said. House Bill 700 reaffirms the right of collective bargaining for state employees. The section on page 5, lines 1 through 11, shows that 59-1603 is unchanged, and organized employees grievance procedures are protected. All employees, union or non-union, have a statutory grievance procedure as the final step. Mr. Johnson also said that H.B. 700 offers minimal due process under the law. It is an incredible statement that AFSCME makes in this regard; they are saying that the state will be forced to be a bad employer and they had better organizations. The state will not be a bad employer; the due process is not in any way a detriment to the trade union organizations.

In response to Mr. Schneider's statements, Mr. Johnson said that this is not a labor board and it will not represent any special interests. It will be a neutral board. In criticism of the board of personnel appeals, Mr. Johnson said that they currently have a backlog of 80 appeals to be heard and now no hearings are scheduled. This is a real problem and this bill addresses that problem; that is the intent of this bill.

Proponents:

Pat Melby, Director of S.R.S., was not present to testify to his support of H.B. 700, as he is in favor of pulling the personnel functions together. S.R.S. is one of the largest users of the merit system he said; all employees are required to be on the merit system bureau for funding from H.E.W. Because of the fragmentation of the Personnel Division, it takes an unduly long time to get positions filled. This bill would facilitate a one-stop personnel system for the department. It has some other advantages as it provides a grievance procedure by an impartial body for all state employees. It will also separate the hearing function from the rule-making function. Mr. Melby and S.R.S. are in wholehearted support of the consolidation of the personnel functions into one place.

Questions:

Senator Stephens said that the union dues members pay go to provide expert services in representing them through a grievance process. Mr. Judge clarified that they also go toward the grievance costs; the union pays half and the management pays half of the cost of the arbitrator. But Senator Stephens said that everybody pays taxes. Mr. Barrett said that in the executive order state agencies were requested, but not mandated, to use the E.S.D. for referrals; most all agencies are doing that and some savings are being experienced.

Mr. Bill Gosnell, Legislative Fiscal Analyst, said that what is budgeted for in the whole personnel function for fiscal years 78 and 79 is \$1 million a year, of which \$600 is general fund money. He assumed that E.S.D. would be doing the recruitment when he budgeted for this. He said that there would be some savings because the merit system bureau is performing some of the same functions of the personnel division. They would need 7 FTE to handle recruiting, which would be a savings over the 11 FTE employed now. Duplication of efforts would save money.

In response to a question from Senator Himsl, Mr. Johnson explained that there are certain personnel positions required by the federal government for the merit system in order to qualify for federal grants. They would not necessarily be duplicating efforts, but the division would have to prove to the federal government how they comply with the requirements.

Mr. Johnson explained that the merit council would not continue to exist in the same capacity it is now. They would not have the nature of an advisory board as they do now. It would be a part-time board with a small staff; basically the same type of operation of the board of personnel appeals.

Senator Himsl asked if the appeals process would be available only to union members. Mr. Judge responded that it is a negotiable item and should not be provided through the payment of taxes to all employees. Through union dollars and everyone's tax dollars, the non-organized employees would have the benefits of the organized. He feels that a non-union employee can have an appeals process available, but they are saying that as a state employee the state should not be in a position of making the final responses for all grievances; it should be a negotiable item. Senator Himsl followed up by asking "As a non-union member, I should not have the right to an appeals process?" Mr. Judge responded, "For grievances other than classification that is what we are saying." What employees had to organize for in the past would be offered free for all state employees.

Representative South asked if this is any different than bargaining for health insurance increases; Mr. Judge said that they have problems with that also. They have gone to the classification system and it has been a constraint across the bargaining table. They have lived within those constraints, but it does not mean they like it, he added.

Will this make the decisions go quicker, Representative Tropila asked. Mr. Johnson said he would be reluctant to say it would. Because the board would focus only on grievances, it generally would be quicker.

Mr. Johnson felt that a five member board might be better because there would be more people; however, it should be neutral.

There being no further questions, the hearing on H.B. 700 was closed.

House Bill 834

Representative Gould appeared to testify on behalf of H.B. 834. Although this bill was not open for hearing this date, Chairman Roberts determined that the testimony could be admitted.

Representative Gould said that he has one gripe which is that the developmentally disabled people aren't being paid the same as any other person. When a new employee would normally start at a grade 11, in the developmentally disabled program the same person would start out at a grade 13. This causes a lot of conflict and hard feelings among the employees. Pat Estenson of the Classification Bureau said that he would check into this situation and respond by letter to Rep. Gould and copies to the committee members, upon the request of Chairman Roberts.

EXECUTIVE SESSION

House Bill 700:

MOTION: Representative Tropila moved that page 8, line 24 be amended by striking "3" and inserting "5".

Representative Fabrega asked if three would then constitute a quorum or if it would be necessary to state that. Chairman Roberts felt it is taken care of in 82A-1014.

VOICE VOTE: The motion carried unanimously.

MOTION: Senator Stephens moved the amendments set forth on the sheet attached from Mr. Duane Johnson.

VOICE VOTE: The motion carried unanimously.

MOTION: Senator Fasbender moved that H.B. 700 be AS AMENDED BE CONCURRED IN.

ROLL CALL VOTE: The motion carried unanimously.

House Bill 834:

Section 6: Representative South said that rather than make it a negotiable item he would prefer to strike the section.

MOTION: Representative South moved to strike section 6.

VOICE VOTE: The motion carried with a vote of 8-1 (Driscoll voting NO)

Section 5: Representative South said that the employees should be able to choose between health benefits and wages, but IRS will not allow that. Under collective bargaining that can be done. Senator Roberts suggested striking section 5 in its entirety. Rep. South said that if the state is buying more health insurance for some than for other employees, it should be reflected in the matrix and addressed in section 5.

MOTION: Representative South moved to strike Section 5 and insert that section proposed by Mike Billings on the attached sheet (Amendment #2)

VOICE VOTE: The motion carried unanimously.

Section 7: Representative Tropila pointed out that section 7 must be changed since section 6 was stricken from the bill. Representative South said that in some cases this is important because coming on at step 1 causes a problem, especially in the crafts.

MOTION: Representative South moved to amend page 7, section 7 by striking the section 7 in the bill and inserting a new section 7 as proposed in amendment #4 on the sheet from Mike Billings.

VOICE VOTE: The motion carried unanimously.

New Section 13: Representative South said that amendment #7 from Mike Billings is a housekeeping amendment. Representative Meloy's bill changed the insurance contribution from \$10 to \$20 the first year and to \$30 every year thereafter. Rather than running a separate bill through the legislature, this bill could be amended by adding this new section. The only problem with this amendment is that with H.B. 183 we took the provisions out that applied to local governments. Local governments would have their own program for this.

MOTION: Representative South moved that we amend the bill by adding this new section without the local government provisions. (John LaFaver will get the correct language for the section.)

VOICE VOTE: The motion carried unanimously.

Section 9: Representative Tropila suggested that we adopt amendment #5 on the proposals from Mike Billings; both management and labor agree on this one. Senator Roberts said that he likes this amendment but it is not tight enough. When we adopt this pay plan we are adopting a certain amount of money per employee, and he does not want to see that amount increase after the legislators go home. They could not exceed that amount and they could not increase appropriations, so they would not fill vacant positions. Mr. Billings commented that there are problems now in the present negotiations over the blue collar plan. One basic problem is the fact that the last legislature said all new employees would start at step one. They had negotiated with all and settled for an internal step. Starting a plumber, for example, at a step one working next to a plumber who is at a step seven with less experience runs contrary to the philosophy that a "journeyman is a journeyman." They have been negotiating this plan for 18 months now. They have come a long way, but have not reached a full agreement yet.

Rep. Driscoll asked how many people are in the group that needs \$115,000 to correct the problems in the crafts. The answer was that 176 people must be raised from step one and that amount is needed to get them to the proper level. There are a few other people involved, but the total would be less than 200.

Senator Roberts suggested that rather referring to an "overall compensation" the word "overall" should be stricken and the language "compensation to any state employee" would replace that phrase. But Rep. South stated that similar employees will not be in this matrix because we are talking about another pay plan.

Rep. South also pointed out that the committee must talk about the fact that management has negotiated contracts for COLA clauses for the last year of the biennium which would escalate the amount state employees would get if inflation goes higher than a certain amount. The committee's intent should be put in the bill. There are set amounts for both years

and the COLA clauses would only plug in if a certain percentage was exceeded or reached. We would be ratifying those COLA clauses for the second year if we don't state out intention in this bill, Rep. South stated.

Rep. Driscoll said that he likes the flexibility that a new system could be negotiated but he likes the amount of money in this plan.

Rep. South said that he did not think this would be as serious a problem as the committee is anticipating because it is the same amount of money but fewer employees. If they want to pay higher, they would have to work with fewer employees. Rep. Ellis said that if that would mean the elimination of some services the legislature is asking them to perform, he would be opposed to it.

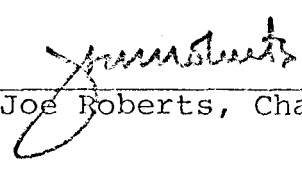
Mr. Billings said that for the 761 people in the blue collar plan, they can calculate how much money they could have. Rep. Driscoll suggested writing up language that will allow all to stay on the matrix but allow the flexibility for the blue collar pay plan. Rep. South said that language could be written binding all other employees; reducing the number of FTEs would be the only other way they could stay in the amount stipulated. Rep. South suggested that the committee could pull the money out of this plan for a blue collar pay plan. After a brief discussion, Rep. Driscoll suggested that possibly the amounts could be modified in section to refer to non-blue collar people and a proposed blue collar pay plan and the amounts for that could be placed in another section or another bill.

MOTION: Rep. Driscoll moved to have a separate section for the blue collar pay plan; appropriate a lesser amount for this pay plan and put in a new section and state the flexibility.

Discussion: There was a brief discussion on this motion. Senator Roberts said that we will still not know what they are going to do and they could still end up reducing the level of services. Mr. Judge said that the teachers are also inappropriately classified. They have also agreed to anniversary date increases; and their people do not like the philosophy expressed in this bill in that regard.

A number of committee members had to leave this meeting to attend other meetings, a quorum was no longer present so action was not taken on this motion.

The meeting was adjourned at 11:30 a.m. and another meeting will be held at 7:30 p.m. this date to continue in executive session.



Joe Roberts, Chairman