

MINUTES OF THE MEETING  
LABOR & EMPLOYMENT RELATIONS COMMITTEE  
MONTANA STATE SENATE

January 26, 1977

The seventh meeting of the Labor and Employment Relations Committee was called to order by Chairman Lee on the above date in Room 402 of the State Capitol Building at 9:30 a.m.

ROW CALL: All members present.

CONSIDERATION OF SB 140: There being no questions or discussion on SB 140, to delete certain boiler inspection fee requirements, Senator Lowe moved that SB 140 DO PASS. The motion carried unanimously.

CONSIDERATION OF SB 141: There being no questions or discussion on SB 141, repealing sections relating to inspections of steam traction engines, Senator Blaylock moved that SB 141 DO PASS. The motion carried unanimously.

CONSIDERATION OF SB 166: John Bobinski passed out a sheet of amendments that he and Norman Grosfield worked out for SB 166, creating an uninsured employers' fund to grant all employees workers' compensation benefits. Mr. Grosfield explained these amendments (a copy is attached) and stated that they were drafted in pursuit to the last meeting. The members of the committee requested that an amendment for State liability be added to SB 166.

Mr. Grosfield explained the fourth amendment first because all of the other amendments followed from this one. This amendment states that the employee who suffers an injury while working for an uninsured employer may choose to either receive benefits from the uninsured employers fund or pursue a damage action against the employer.

Discussion was then held. Senator Goodover asked if you did choose to sue the employer could you then come back and receive benefits from the uninsured employer's fund. John Bobinski stated that once an election has been made to either take from the fund or pursue a damage action, the election is final.

Robert L. Holding, of Montana Word Products Association, asked if the employee still has the right to waive his right to be covered under the Worker's Compensation Act. Bobinski stated that every employee whose employer is bound by the provisions of this act shall also become subject to the provisions of the act. Grosfield added that no employer can be refused coverage unless he has back due premiums.

Mr. Grosfield then explained that if the uninsured employers fund does run low, the division may make appropriate proportionate reductions in benefits to all claimants. There was much discussion

on this subject. Senator Lowe and Senator Goodover were confused on how an employee could collect more money from the fund than was paid into it. Grosfield explained that this was not what he was saying. Benefits from the fund shall be paid in accordance with the sums in the fund. A certain percent of benefits to the employee are better than no benefits at all.

Senator Goodover then stated that he didn't think that they should try for the general fund appropriation. He said that the uninsured employer's fund already has three sources of funding and there should be money in the fund now.

George Wood, of the Montana Self-Insurers Association, said there has been some confusion. He said there is no money in the fund because there have been no deaths. The committee felt that they wanted to start payout from this fund as soon as possible and that is the reason for the general fund appropriation.

Senator Blaylock then moved that SB 166 DO PASS AS AMENDED. All members of the committee voted "aye" except Senator Lowe and Senator Goodover voted "nay".

ADJOURN:

There being no further business, the meeting was adjourned at 10:30 a.m.

  
Robert E. Lee, Chairman

LABOR & EMPLOYMENT RELATIONS COMMITTEE

Date 1/26

[illegible]

SENATE LABOR COMMITTEE

COMMITTEE

BILL 140 141 166

# VISITORS' REGISTER

DATE 1/26

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

## AMENDMENTS TO SENATE BILL 166

1. Amend page 2, Section 1, line 9.

Following: "Household"

Insert: "and domestic"

2. Amend page 3, Section 2, line 14.

Following: "92-212"

Insert: ", 92-213, and 92-214"

3. Amend page 9, Section 4, line 21.

Following: "be paid"

Insert: "from the fund"

4. Amend page 11, Section 5, line 4.

Following: line 4

Insert: "Section 5. There is a new R.C.M. section numbered 92-213 that reads as follows:

92-213. Election of uninsured employee to take under the fund or bring action against employer -- limitation on benefit entitlement under the fund. (1) An employee who suffers an injury arising out of and in the course of employment while working for an uninsured employer as defined in 92-212(1), or an employee's beneficiaries in injuries resulting in death, may elect to either receive benefits from the uninsured employers fund or pursue a damage action against the employer. However, once an election has been made to either take from the fund or pursue a damage action, the election is final and binding on the employee or the employee's beneficiaries, heirs, and personal representatives. An injured employee or the employee's beneficiaries may not receive both benefits from the fund and pursue a damage action. If an injured employee or the employee's beneficiaries elect to bring an action to recover damages for personal injuries sustained or for death resulting from personal injuries so sustained, it is not a defense for the employer that the:

(a) employee was negligent unless such negligence was willful;

(b) injury was caused by the negligence of a fellow employee; or

(c) employee had assumed the risks inherent in, incident to, or arising out of his employment or arising from the failure of the employer to provide and maintain a reasonably safe place to work or reasonably safe tools or appliances.

(2) Notwithstanding the provisions of 92-212 and 92-614, injured employees or an employee's beneficiaries who elect to receive benefits from the uninsured employers fund are not granted an entitlement by this state for full workers' compensation benefits from the fund. Benefits from the fund shall be paid in accordance with the sums in the fund. If the division determines at any time that the sums in the fund are not adequate to fully pay all claims, the division may make appropriate proportionate reductions in benefits to all claimants. The reductions do not entitle claimants to retroactive reimbursements in the future."

Renumber: all subsequent sections.

5. Amend page 11, Section 5, line 4.

Following: "section"

Insert: "numbered 92-214"

6. Amend page 11, Section 5, line 19.

Strike: "wilful"

Insert: "willful"