

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

January 28, 1977

The eighth 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 96: An act providing that employees of school districts under collective bargaining must serve notice upon the employer of their desire to negotiate a subsequent agreement.

Senator Thiessen, Chief Sponsor of this bill, appeared before the committee to introduce SB 96. 75-6119 R.C.M., recognizing the special requirements of school districts, mandated that school district employees give notice of intention to bargain and a statement of the items to be negotiated by November 1. When these employees were placed under the Public Employees Collective Bargaining Act this section was repealed along with the rest of the Teachers Collective Bargaining Act. School districts are unique among governmental bodies in that they must submit a significant portion of their operating budget each year for public approval and acceptance. Normally, this must be done by the 1st Tuesday in April. In order for the amount of the mill levy to be calculated the school district must have a reliable figure upon which to base these calculations no later than March 1. Employees salaries and fringe benefits are a major portion of a school budget, approaching 85% in most districts.

Wayne Buchanan, representing Montana School Board Association, appeared before the Committee in support of this bill. Some employee unions argue that the collective bargaining should be unencumbered by such legislation - that this is a negotiable item and can be included in master contracts by agreement of both parties. The fact is there is considerable legislation which protects the employees right to bargain collectively and mandates specific steps which must be followed by both sides. The reason this rule applies only to one side and not the other is that the realities of collective bargaining are that the employees initiate changes in the present agreement while the employer reacts to these proposed changes. (See attached testimony)

Chad Smith, representing Montana School Board Association, also appeared in support of SB 96. Mr. Smith went into some detail on this bill. The collective bargaining process has become more involved and time consuming. This bill will keep the school boards from having too much pressure and though a November 1 deadline will not assure that negotiations will be completed by March 1, it does give ample time for the collective process to work.

There being no further proponents to SB 96, Senator Lee then

called for the opponents of this bill.

Jim McGarvey, representing the Montana Federation of Teachers, AFT, AFL-CIO, appeared in opposition to SB 96. It is a strong contention of the Montana Federation of Teachers that the date for opening of negotiations should be a negotiable item and that this should be decided locally between the school boards and local bargaining representatives. If negotiations begin in November, it is possible they could run through the entire school year which would take away from a good educational process. (See attached testimony.)

Don Judge, representing AFSCME, AFL-CIO, appeared in opposition to SB 96. This bill appears to place in the hands of management those things which are currently negotiable. In the bill, unions "may not demand" negotiations to begin prior to November 1 of the last contract year. Unions must notify by November 1 of intent to negotiate and include in such notice specific items to be negotiated. These are now both negotiable.

Lloyd Markell, representing MEA, also appeared in opposition to SB 96. The school board under existing law is free to open negotiations at any time they wish. It seems highly unfair to tie one side in to a set of demands, without requiring a like obligation on the part of the other side.

Tom Schneider, Montana Public Employees Association, rose in opposition to this bill.

Ernest Post, Montana State AFL-CIO, appeared in opposition to this bill. The bill you are considering today violates the spirit, the intent, and the philosophy of collective bargaining on several fronts. By setting a deadline for employee notification of intent to open negotiations and by requiring a list on that deadline date of specific demands, employees are boxed into a corner set by law. (See attached testimony.)

Discussion was then held by the committee.

Senator Himsl asked if there would be any objection to amend this bill so it would say that the demands of the employer and employee be made public. Senator Thiessen said there would be no objection.

The committee members seemed to be confused on how specific "specific" really meant in the last line of the bill. Tom Schneider stated that specific meant you state exactly what you want. When you go to the table you set out what you want.

Senator Mehrens then made a motion that SB 96 DO NOT PASS. The motion failed with Senators Lee, Smith Blaylock and Mehrens voting "aye" and Senators Lowe, Himsl, Goodover, and Nelson voting "nay".

Senator Himsl then suggested the amendment to amend section 2, line 23. Strike: "specific". Amend section 2, line 24. Following: "negotiation." Insert: "by initial demands by the employer, representative and the employee shall be made public." There was much discussion on this amendment saying you would then have to change the title of the bill also.

Senator Lowe moved that consideration of SB 96 be deferred until legal authority was sought on how to amend the bill and the title of the bill is necessary. The motion carried unanimously.

ADJOURN:

There being no further business, the meeting was adjourned at 10:55.



Robert E. Lee, Chairman

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 1/28

[illegible]

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date January 28, 1977 SENATE Bill No. 96 Time 10:45 a.m.

NAME	YES	NO
Senator Robert Lee, Chairman	✓	
Senator Bill Lowe, Vice Chairman		✓
Senator Chet Blaylock	✓	
Senator Pat Goodover		✓
Senator Matt Himsl		✓
Senator Sandy Mehrens	✓	
Senator Harold Nelson		✓
Senator Richard Smith	✓	

Laurie Jo Antonietti
Secretary

Senator Robert Lee
Chairman

Motion: Senator Mehrens moved that SB 96 DO NOT PASS.

The motion failed.

(include enough information on motion--put with yellow copy of committee report.)

LABOR

COMMITTEE

BILL

96

VISITORS' REGISTER

DATE _____

1/28

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Testimony on SENATE BILL 96 given by Senator Thiessen

Below are listed some of the points you may wish to consider in your introduction of SB 96:

1. 75-6119 R.C.M., recognizing the special requirements of school districts, mandated that school district employees give notice of intention to bargain and a statement of the items to be negotiated by November 1. When these employees were placed under the Public Employees Collective Bargaining Act this section was repealed along with the rest of the Teachers Collective Bargaining Act.
2. School districts are unique among governmental bodies in that they must submit a significant portion of their operating budget each year for public approval and acceptance. Normally, this must be done by the 1st Tuesday in April. In order for the amount of the mill levy to be calculated the school district must have a reliable figure upon which to base these calculations no later than March 1.
3. Employee salaries and fringe benefits are a major portion of a school budget, approaching 85% in most districts.
4. The collective bargaining process has become more involved and time consuming. Though a November 1 deadline will not assure that negotiations will be completed by March 1, it does give ample time for the collective process to work.
5. These budget deadlines do give the employee unions significant advantage in collective bargaining since a deadline puts pressure on a school board to settle on conditions favorable to the union or bargaining unit.
6. A November 1 deadline would not be to the advantage to either side in collective bargaining since all demands concerning wages, fringe benefits, and other conditions of employment can be determined by November 1.

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Wayne G. Buchanan, Director of Special Services

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2400 Glen Drive
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DATE: January 28, 1977

TO: Senate Committee on Labor & Employment Relations

FROM: Wayne G. Buchanan, Director of Special Services

SUBJECT: Proponent Testimony on Senate Bill 96

The Montana School Boards Association wishes to go on record as proponents to Senate Bill 96 based upon the following testimony:

1. 75-6119 R.C.M., recognizing the special requirements of school districts, mandated that school district employees give notice of intention to bargain and a statement of the items to be negotiated by November 1. When these employees were placed under the Public Employees Collective Bargaining Act this section was repealed along with the rest of the Teachers Collective Bargaining Act.
2. School districts are unique among governmental bodies in that they must submit a significant portion of their operating budget each year for public approval and acceptance. Normally, this must be done by the 1st Tuesday in April. In order for the amount of the mill levy to be calculated the school district must have a reliable figure upon which to base these calculations no later than March 1.
3. Employee salaries and fringe benefits are a major portion of a school budget, approaching 85% in most districts.
4. The collective bargaining process has become more involved and time consuming. Though a November 1 deadline will not assure that negotiations will be completed by March 1, it does give ample time for the collective process to work.
5. These budget deadlines do give the employee unions significant advantage in collective bargaining since a deadline puts pressure on a school board to settle on conditions favorable to the union or bargaining unit.
6. A November 1 deadline would not be to the advantage to either side in collective bargaining since all demands concerning wages, fringe benefits, and

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Senate Committee on Labor & Employment Relations

Proponent to SB 96

other conditions of employment can be determined by November 1.

In addition, there are two further points which may be advanced by those who oppose this legislation.

1. Some employee unions argue that the collective bargaining should be unencumbered by such legislation - that this is a negotiable item and can be included in master contracts by agreement of both parties. The fact is there is considerable legislation which protects the employees right to bargain collectively and mandates specific steps which must be followed by both sides.

2. Another question raised by the opposition is: "Why should this rule apply only to one side and not the other?" The answer is that the realities of collective bargaining are that the employees initiate changes in the present agreement while the employer reacts to these proposed changes. We are asking that school boards have adequate time to react to these proposed changes.

In light of these considerations, we respectfully ask that this committee give this bill a "do pass" recommendation.



MONTANA STATE FEDERATION OF TEACHERS

AMERICAN FEDERATION OF TEACHERS
AFL-CIO

P.O. Box 1246

Helena, Montana 59601

(406) 442-2123



January 28, 1977

Chairman Lee and members of the Senate Labor Committee:

My name is Jim McGarvey. I represent the Montana Federation of Teachers, AFT, AFL-CIO, and I am appearing in opposition to SB96. It is the strong contention of the Montana Federation of Teachers that the date for opening of negotiations should be a negotiable item and that this should be decided locally between the school boards and the local bargaining representative.

Affiliates of the Montana Federation of Teachers have bargained collectively as far back as 1935 and 1937 in Butte and Anaconda, respectively. And have never had a problem with regard to the opening of negotiations nor has any of the other 35 locals which the Montana Federation of Teachers represents in the state today.

There are many reasons for our opposition, but to mention a few:

1. If negotiations begin in November, it is possible they could run through the entire school year which would certainly take away from a good educational process.
2. At present, I doubt if there are any school boards and teacher representatives who conduct serious negotiations prior to the holidays.
3. Most contracts begin around July 1 or September 1. This would only give two months to see how the current contracts are working and this wouldn't be enough time to really know if they are workable. Also, since negotiations depend heavily upon the legislature and appropriations via the school foundation program, this information

would not be available back at November 1 (problem at least every other year.)

4. Although most contracts expire July 1, contracts for bus drivers, cooks, secretaries, etc. could expire at various times during the year, possibly on January 1, which would not allow an appropriate amount of time for preparing a contract.

5. A law like this requiring negotiations begin on November 1 would stifle the possibility of an organization challenging the present organization in that the law mandates these certification elections be conducted during January and thus bargaining agents would become entrenched. If an election did take place and one union would be decertified, the new union would not be able to begin bargaining for as much as one and one-half years, which would place the district in a chaotic situation.

Again, the Montana Federation of Teachers strongly urges that you reject Senate Bill 96.



Box 1176, Helena, Montana

ZIP CODE 59601

JAMES W. MURRY
EXECUTIVE SECRETARY

LUNDY SHOPPING CENTER
MISSOULA HIGHWAY

REMARKS OF THE MONTANA STATE AFL-CIO ON SENATE BILL 96, HEARINGS BEFORE THE
SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE, JANUARY 28, 1977

I am appearing today in opposition to Senate Bill 96 on behalf of the Montana State AFL-CIO.

The bill you're considering today violates the spirit, the intent and the philosophy of collective bargaining on several fronts.

By setting a deadline for employee notification of intent to open negotiations and by requiring a list on that deadline date of specific demands, employees are automatically boxed into a corner set by law.

The reason that collective bargaining has worked so well for so long in this country is that it is based on the premise that both sides to an agreement bargain in good faith on the issues that arise during the course of negotiations. Although the concept of collective bargaining is defined and directed by law, the course of negotiations is left up to the parties involved. Neither side is tied to statutory language governing the specific issues that come up during negotiations.

Although this bill would require employees to notify the employer of the specific demands to be considered for negotiation, it has nothing to say about a counter obligation on the part of the employer. It seems highly unfair to tie one side in to a set of demands, without requiring a like obligation on the part of the other side. The give-and-take now practiced under collective bargaining works to the advantage of both sides to an agreement, and that's the way it should work.

I have trouble with statutory deadlines because contracts for the various school district employees have different expiration dates. A school district employs teachers, custodians, engineers, cooks, and groundskeepers, to mention a few. Some of these employees work a full calendar year and some work for only the duration of the school term. How could you realistically tie all of these employees into the same deadline for notification of intent to negotiate?

Perhaps my greatest problem with the bill is that it draws yet another arbitrary distinction between the public and private sector. Collective bargaining is fundamentally the same, whether it applies to government workers or to industrial workers. Each side has its demands, and each side sits down in good faith to work out some differences and arrive at a mutually acceptable agreement. Just because the government is their boss, public employees have been ranked in a class by themselves. The fundamental rights they are entitled to as workers are threatened constantly, and bogging them down with more statutory restrictions like the ones proposed in Senate Bill 96 is a classic example of what I'm talking about.

I thank you for the opportunity to be heard on this bill and I urge you to reject this attempt to discriminate against our workers in the public sector.

open #2, afl-cio

NAME: Donald R. Judge DATE: 1/28/77

ADDRESS: 600 N. Cooke St.

PHONE: 442-0760

REPRESENTING WHOM? AFSCME, AFL-CIO

APPEARING ON WHICH PROPOSAL: SB 96

DO YOU: SUPPORT? AMEND? OPPOSE? X

COMMENTS: This bill appears to place in the hands of
management those things which are currently negotiable. In the
bill for instance: Unions "may not demand" negotiations to begin
prior to Nov. 1 of the last contract year. This is now
negotiable.

this bill unions must notify by Nov. 1 of intent to negotiate
and include in such notice "specific items" to be
negotiated. This is now negotiable. Management
also makes serious change of language demands in labor
contracts - in fact - I have yet to sit down with
any of the three school district employer representatives
that they have not proposed changes in contract language.
we recommend you give this bill a Do Not Pass

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.