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

January 31, 1977

The ninth 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 136: An act to give the commissioner of Labor and Industry the power to appoint the administrator of the Workers' Compensation Division and to make the Workers' Compensation Division an internal unit of the Department of Labor and Industry.

Senator Lee, Chief Sponsor of the bill, introduced this bill to the committee. The proposed bill would remove the requirements that the administrator be appointed by the Governor, and would allow the Commissioner of Labor and Industry to appoint the Administrator. The bill would remove the Division's allocation for administrative purposes only to the Department and would place the Division fully under the Department. SB 136 is an attempt to further the efforts at executive reorganization in Montana, and to provide additional streamlining and uniformity in state government.

Ron Weiss, representing the Governor's Office, appeared in support of this bill. The intent of the Executive Reorganizational Act of 1971 was to create a structure within the executive branch made up of major departments. This structure should allow for direct lines of authority and communication from the Governor to department heads down to the division administrators. A complete review of this structure is necessary to insure that each department remains responsice to the citizenry and legislature. At present the Workers' Compensation Division administrator is the only division administrator appointed by the Governor. There is no reason for this as the division carries on its funcion in administering laws in the same manner as all other divisions. SB 136 has been introduced to further refine the structure created by Executive Reorganization by providing for the direct attachment of the Workers' Compensation Division to the Department of Labor and Industry.

Dave Fuller, representing the Department of Labor and Industry, appeared in support of this bill. This bill will in no way divert from the statutory function of the Workers' Compensation Division. It will bring the Division into conformance with the Reorganizational Act. The Division works very closely with both employers and employees.

Norman Grosfield, representing the Workers' Compensation Division, appeared in support of this bill. The Division fully supports this bill. The Workers' Compensation Division should be

established like all other divisions within the departments of State Government.

There being no further proponents, Senator Lowe (presiding in the Chair) asked if there was any opposition to this bill.

George Wood, representing the Montana Self Insurers Association, appeared in opposition to this bill. This is not the first time a bill like this was before the legislature. It removes from the Governor the appointment of the administrator of the Workers' Compensation Division. We do not think at this time it should be put under the Department of Labor. We think it is the responsibility of the Governor to appoint the administrator. It is not a labor law, it is business regulations, it involves self insurers. There are 120 insurance companies writing Workers' Compensation insurance in Montana. None of the other states where the Workers' Compensation is part of the Department of Labor operate any insurance companies. We have a direct line of communication and we do not need to put someone else in between.

Discussion was then held by the committee.

CONSIDERATION OF SB 163: An act concerning strikes by public employees and public employee organizations.

Senator Himsl, Chief Sponsor of this bill, intorduced the bill to the committee. SB 163 relating only to public employees is only another tool which may help prevent a loss of pay for public employees, save communities from disruptive and shattering experiences and save the state from paying for emergency services. Three-fourths of the states have no-strike provisions for public employees in one form or another.

This bill would shift the ultimate power to the sovereignty of the state where it rightfully belongs. To render the services of protecting the citizen, the state has monopolistic sovereign powers over health, safety, and general welfare. These services are delivered by public employees. The state havs an obligation to provide these services, public employees have an obligation to deliver these services. A failure to deliver these monopoly services does not relief the state of its obligation.

We now have processes to avoid strikes such as required negotiations, mediation, fact-finding. This bill would add one more, the courts with the power and prestige to bring the parties together. This prohibition of strikes by public employees may not prevent walk-outs, but it should minimize the temptation as the courts can order the parties to keep working. There is no right to strike against the sovereign state.

Tom Winsor, representing the Montana Chamber of Commerce, appeared in support of this bill. The state provides monopoly service. Unionized state employees gain the monoploy right to

provide those monopoly services. No private employer or private sector union operate with such power over the consumer. The right to strike without the management right to lockout is a difficult tool for the state to counter.

There being no further proponents, Senator Lee asked if there were any opponents.

Jim Murray, representing Montana State AFL-CIO, appeared in opposition to this bill. What the bill provides for really is meet and confirm, not collective bargaining. It provides for no meaningful ways to settle disputes, nothing to compel for employees good faith bargaining. No one wants to strike, it is only a last effort to settle an argument. Collective bargaining and the right to strike are necessary item.

Don Judge, representing AFSCME, AFL-CIO, appeared in opposition to this bill. This bill goes to the heart of the working men's and women's ability to express to their utmost, a real dissatisfaction with their jobs. He reminded the committee of what happened at Boulder River School and Hospital four years ago. Everyone was suffering in Boulder until the employees went on strike. No union employee enjoys a strike. Everyone suffers from work stoppage. Montana's experience in public sector strikes has not been bad at all over the past two years. Lack of experience in the actual collective bargaining process has probably led to little other choice in past strikes. Lets get on with the process of Collective Bargaining not accept or quit.

Tom Schneider, representing Montana Public Employees Association, appeared also in opposition to this bill. We do not have collective bargaining if this bill passes. There is no process to finalize the bargaining at the table. All this bill does is take away the one option that is guaranteed. If SB 136 was passed, what would happen if no agreement was reached? When we get to the point of one side not agreeing to arbitrate, you would have to have an illegal strike.

Oscar Seigle, representing Warm Springs State Hospital Independant Union, appeared in opposition to SB 136. We tried to get the State of Montana to agree with us but they would not. We had to strike. There are cases when there is nothing to do but strike. People need this right.

Duane Johnson, representing the Department of Administration, appeared in opposition to SB 136. What kind of solution do you have when in the final analysis labor and management cannot agree? It may be a rather simple analogy. Products are established arbitrarily. Labor is forced to bargain for their time and talent. The impact on strikes in the state government has not been severe. There has to be a better alternative but ther is none.

Senator Roberts, District 11, appeared in opposition to SB 136. I believe that the right to strike should be given to public employees as private employees have that right. When it comes to the final step and no agreements have been reached, there will be walk outs and illegal strikes. Because of this, this kind of legislation is not going to work.

Gene Fenderson, representing the Labor Relations Bureau, appeared in opposition to SB 136. There will always be controversies on any given subject in labor relations, and there must be a means to settle them. The alternative to the right to strike is compulsory arbitration, which , I believe, would be unacceptable to both the Executive Branch and the Legislative Branch of Government. (See attached testimony)

Pat McKittrick, representing Joint Council of Teamsters, appeared in opposition to this bill. This bill deprives the employer the right to strike. The right to strike is certainly something unions have to recognize in a reasonable manner. In Montana this right has not been abused. It provides a tool for looking at the needs of the public as seen by the Institutions.

Russell Myers, representing the International Union of Operating Engineers, appeared in opposition to this bill. The ultimate solution is not taking away the right to strike to all public employees. Taking away the right to strike would turn the state into a totaliarianism form of government, not democracy. Both sides must bargain in good faith. There should be no work stoppage just as long as both sides carry out their reponsibilities entrusted to them by the people they represent.

Jim McGarvey, representing Montana Federation of Teachers, AFL-CIO, appeared in opposition to this bill. Since teachers were included in collective bargaining we have had no strikes. Prior to this we have had four strikes. In all cases the judge stepped in and insisted that both sides negotiate. This provides for unfair labor practices.

Maurice Hickey, representing Montana Education Association, appeared in opposition to SB 136. We went under the Collective Bargaining Act in 1975 and since we have had two strikes. We have had negotiations and we went through the fact finding. Under this law it is regulatory to the courts and the courts must decide the penalities. Just because you have as a law not to strike, it does not preclude people from doing it. We want the right to strike to remain.

Lonny Mayer, representing the Retail Clerks Union, appeared in opposition to this bill. History proves in the public and private sector that over 90% of all contracts negotiated are settled without a strike. If you take away the right to strike, you would have more strikes than you have had in the past. The unions and

public employees should be given the opportunity to work out their problems at the collective bargaining table. The right to strike is the only hammer that the unions have at the last resort to get a contract settled.

Charlotte Posey, Representing C.W.A., appeared in opposition to SB 136. Without the right for Public employers to strike, it deprives them of the right to free collective bargaining. We do not represent any public employers in the state but we do represent the labor.

There being no further opponents, Senator Lee called again on Senator Himsl.

Senator Himsl stated that this is not the total answer and he didn't intend it to be. We have made progress in this direction. For the welfare of the state and the public, we have to decide here what the alternative is going to be. The court is in here. It does have a special function in our Constitution and they have to get together and reach a reasonable solution. The bill does take the ultimate weapon away from collective bargaining groups. But the ultimate power rests with the state of the political sovergnity to which it has been given.

Discussion was then held by the committee.

ADJOURN:

There being no further business, the meeting was adjourned at 11:05 a.m.

Robert E. Lee, Chairman

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 1/31

NAME	PRESENT	ABSENT	EXCUSED
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	✓		

SENATE LABOR COMMITTEE

BILL 136, 163 VISITORS' REGISTER DATE 1/31

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Randall P. Ward	Randall P Ward	163		
Gary Ward	Mt. Self Insurers Assn	136		✓
[illegible]	teamsters	163		
[illegible] Roberts	Teamsters			✓
Richard Fenderson	Teamsters			✓
[illegible]	I.U.O.E. Local #627	163		✓
Tony Barrie	IUOE Local #927	163		✓
Edward T Stacey	IUOE Local #927	163		✓
Tim Eglet	IUOE Local # 927	163		✓
[illegible]	Teamsters	163		✓
[illegible]				
Tommy Mayer	Retail Clerks	163		✓
Dick Dyba	WSSH. Ins. Division	163		✓
[illegible]	[illegible] Billings	163		✓
[illegible]	WSU Independent	163		✓
Ernest Post	Montana State AFL-CIO	163		✓
Rudolfo Posey	C.W.A. mun. wkrs. div	163		✓
Jim McGarvey	Mont Fed of Teachers AFL-CIO	163		✓
Ron Weiss	OBPP	136	✓	
Don Judge	AFSCME, AFL-CIO	163		✓
[illegible]	Oper Engineers Intl	163		✓
Eugene Henderson	Office of Labor Relations	163		✓
Robert G. Kaponda	Mt State Council of Carpenters	163		✓
Norm Grosfield	Division of Workers Comp	136	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE LABOR COMMITTEE

BILL 136, 163 VISITORS' REGISTER DATE 1/31

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
James F Murphy	Dir. Workers Comp	136	✓	
DAVE FULLER	DEPT of Labor & Industry	136	✓	
Ernest Bogh	Mont State AFL-CIO	136	✓	
James Schneider	MEA	136	✓	
Al Sampson	Firefighter	163		✓
James Schneider	MEA	163		X
Dave Stitler	Personnel Division	163		✓
Duffy Kuster	Fire Fighter	163		✓
Lee Nelson	Mt St Firefighters Assn.	163		✓
Duane Johnson	Personnel Div, Administrator			✓
Journalists	Senate	163		
Earl Johnson	SAM	163		
David Eulleton	AFSME & 971	163		
Robert Morris III	BRS&H AFSME 971	163		✓
[illegible]	" " "	163		✓
Marcial Geraghty	" " "	163		✓
Adrian Jensen	MT. St. Emp. 971 AFSCME	163		
Robert D. Kobaunda	Mt St Council of Carpenters	163		✓
Norman Messick	BRS&H of AFSME 971	163		✓
Ronald L Shell	BRS&H AFSME 971	163		✓
[illegible]	Oper. Engineers Local #400	163		✓
[illegible]	Oper. Engineers #400	163		✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

DATE January 31

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS BILL NO. 136, 163

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support	Check One: Oppose
Cindy Scott	Mont. Catholic Conference		

MEMORANDUM

RE: Senate Bill 136

Senate Bill 136 would amend Section 82A-1004, R.C.M. 1947, which relates to the creation of the Division of Workers' Compensation, the appointment of the Administrator of the Division, and the Division's allocation to the Department of Labor and Industry for administrative purposes only.

The proposed bill would remove the requirement that the Administrator be appointed by the Governor, and would allow the Commissioner of Labor and Industry to appoint the Administrator. Also, the bill would remove the Division's allocation for administrative purposes only to the Department and would place the Division fully under the Department.

The intent of the Executive Reorganization Act was to create a structure within the executive branch of government made up of major departments. The structure would allow for direct lines of authority from the department head down through the department. Thus, the director of a department would have direct contact with the Governor's office which would provide overall direction to the administration of each department. Such a system would provide for clearcut responsibilities and provide for uniform direction by the department head. Under the Executive Reorganization Act, functions were transferred to the various departments and the department head was granted authority to see that these functions were properly carried out. The major entities below the department were the divisions of the various departments.

The only division in the Executive Reorganization Act that was established whereby the Governor would appoint the Division Administrator, was the Division of Workers' Compensation. There appears to be no reason why the Division should be singled out as a specialized division for direct line authority to the Governor's office. The Division carries on its functions in administering the laws assigned to it in the same manner as all divisions within the executive branch and within the various departments that administer programs. In fact, the Division of Workers' Compensation is a relatively small division when compared to other divisions within various departments of state government. The present system in effect establishes a cabinet level position for the administration of the workers' compensation program. It appears that there is no need for such a designation and that a single department head should have authority over the Division in the same manner that department heads have authority over other divisions within the state.

Because of the Division's designation for administrative purposes only, it is legally and procedurally difficult to have a department with unified direction and control. Senate Bill 136 would provide for uniform direction within the Department of Labor and Industry. The Director of the Department would then have full authorization to coordinate activities within the Department in relation to all of the Divisions. The Director of the Department could determine whether there could be a consolidation of certain administrative details. Possible areas of consolidation could be in matters relating to data processing, auditing functions, and statistical information.

The Division of Workers' Compensation is funded through an assessment system collected from self-insurers, private insurance carriers writing workers' compensation insurance in Montana, and the State Compensation Insurance Fund. By law, the moneys collected from these assessments can only be used to administer the workers' compensation and occupational safety programs that are now administered by the Division. Thus, there would be no possibility of diverting such money to other unrelated programs within the Department of Labor and Industry.

Senate Bill 136 is an attempt to further the efforts at executive reorganization in Montana, and to provide additional streamlining and uniformity in state government.

The intent of the Executive Reorganization Act of 1971 was to create a structure within the executive branch made up of major departments. This structure should allow for direct lines of authority and communication from the Governor to the department heads down to the division administrators. Such a system should also provide for clearcut assignment of responsibilities and provide for uniform direction by the department head.

Periodically, a complete review of this structure is necessary to insure that each department remains responsive to the citizenry and to the legislature, and to insure that the departments are responding to ever-changing conditions in the state which impact upon the departmental goals and objectives.

Montana's current organizational structure contain 19 departments with related agencies or boards attached to those departments for administrative purposes only. Workers' Compensation Division is one of those agencies attached for administrative purposes only.

At present the Workers' Compensation Division administrator is the only division administrator appointed by the Governor. There is no apparent reason for this procedure as the division carries on its function in administering the laws assigned to it in the same manner as all other divisions within the executive branch and within all departments which administer programs.

SB 136 has been introduced in an effort to further refine the structure created by Executive Reorganization BY PROVIDING FOR THE DIRECT ATTACHMENT OF WCD TO THE

No-Strike Bill Senate Bill # 163

Senate bill # 163 related only to public employees; it is not a panacea, it is not as good as some may think, it is not as bad as other may think, it is only another tool which may help prevent a loss of pay for public employees, save communities from disruptive and shattering exeriences, and save the state from paying for emergency services.

This bill is not revolutionary! Executive Order prohibits strikes in the Federal sector. Prior to the 1975 session, teachers---our largest employee group, were not allowed to strike. Nurses have a limited strike weapon---cannot strike within 150 miles of another facility which is on strike. The Montana law is really silent on strikes but the law allows "concerted ~~action~~ activity" which our Supreme Court has ruled means strikes.

Senate bill # 163 provides, Section 1: "No public employee or employee organization may engage in a strike or cause, instigate, encourage, or condone a strike against a public employer."

Sub-section 2 provides "Whenver a strike occurs, the employer shall petition the appropriate district court for relief. The court may assess penalties against the striking employees or employee organization, or both."

~~Under~~ Employee rights 59-1603 are detailed allowing from concerted activites, EXCEPT STRIKES AGAINST THE EMPLOYER.

Is there a need for this law? Three-fourths of the states have no-strike provisions for public employees in one form or another. Our labor department reports that as of December 31, 1976 there were 54,700 public employees in Montana which is 16.7 % of the total labor force---about 1 out of 6 employees are public employees. It is estimated that 31.2 % are organized for collective bargaining purposes.

From July 1, 1973 through December 31, 1976 there have been 13 strikes, hitting school districts, cities, counties, and the state. I can't give you the numbers involved or the loss of pay to employees, or the additional costs, if any, to the political sub-divisions.

Obviously this is a course of action to be avoided or restrained for the welfare of all concerned. We now have processes to avoid strikes: required negotiations, mediation, fact-finding, and voluntary arbitration---this bill would add one more, the courts with the power and prestige to bring the parties together.

This bill would shift the ultimate power to the sovereignty of the state where it rightfully belongs if you believe in constitutional government.

Our constitution Art II Section I deals with popular sovereignty: "All political power is vested in and derived from the people." The people granted a contract---the constitution---established the state with the primary purpose of protecting the citizen his life and property. To render this service the state has monopolistic sovereign police powers over health, morals, safety, and general welfare. These obligatory monopoly services are delivered by public employees. The state has an obligation to provide these services, public employees have an obligation to deliver these services---that is why theyw ere employed in the first place! A failure to deliver these monopoly services does NOT relief the state of its obligation---so the Governor has no choice---even to calling out the National Guard for the delivery of services they are not trained or equipped to deliver---that is not their function! We then have a police state---contrary to the expressed will of the people which instituted the government with civilian administration.

(more)

This prohibition of strikes by public employees may not prevent walk-outs but it should minimize the temptation as the courts can order the parties to keep working, to get together---and reasonable people will hopefully do so.

Briefly stated, there is no right to strike against the sovereignty state! We are all passengers on the ship of state---mutiny will eventually destroy the vessel---since you can't sink half a ship!

I respectfully ask you to think objectively about this issue---think as trustees of our constitutional duties---I think the public interest demands it---and I hope you find the strength of courage to support it and vote favorably on Senate Bill # 163.

NAME Tom Wilson Bill No. SB 163

ADDRESS 110 Neill Ave Date 1/31/76

WHOM DO YOU REPRESENT? Montana Chamber

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The State provides monopoly service — Unionized state employees gain the monopoly right to provide those monopoly services. No private employee or private sector union operate with such power over the consumer.

The taxpayer is both the ultimate employer & consumer. There is no effective defense for the taxpayer.

The right to strike without the management right to lockout is a difficult bar for the state to operate

NAME: Lloyd J McCormick DATE: 1/31/1977

ADDRESS: 109-14th St So Great Falls

PHONE: 452-0482

REPRESENTING WHOM? Teamsters

APPEARING ON WHICH PROPOSAL: 163

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: Public employees should have the same right as all other working people

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME AL SAMPSON Bill No. 163

ADDRESS 2009 Billings Ave Date 1-31-77

WHOM DO YOU REPRESENT? Mont. State Firefighters

SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The removal of the right to strike for public employees emasculates the collective bargaining Act.

Fire fighters have never gone on strike but without the right to strike there cannot be effective collective bargaining.

MONTANA STATE COUNCIL No. 9

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES
Affiliated With A.F.L.–C.I.O.

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ald R. Judge
Representative

JANUARY 31, 1977

TESTIMONY ON SENATE BILL 163

Mr. Chairman, Members of the Committee, for the record I am Don Judge, Field Representative for the American Federation of State, County and Municipal Employees Union, AFL-CIO, and I rise today as an opponent of Senate Bill 163.

Mr. Chairman, Members of the Committee, this is probably the most regressive piece of labor legislation to come before the Legislature this year. More than reflecting what I believe is probably a genuine difference in philosophy, this Bill goes to the heart of the working men's and women's ability to express to their utmost, a real dissatisfaction with their jobs. Their only other manner of relating problems of a serious magnitude would probably be to quit.

We are all too painfully aware of what "quitting" can do to both the employer and the employees and ultimately the product itself is also effected. Perhaps the most poignant reminder of "forced quitting" in our minds should be Boulder River School and Hospital four years ago, when the turnover rate was over 300%. No one was satisfied with the conditions at Boulder, Not the Employer, Not the Employees, Not the Public, and most certainly Not the Residents. Everyone was suffering either in or about Boulder <u>Until the Employees Struck!</u> Only

when the employees exercised this last option were the plights of the forgotten mentally-retarded citizens brought to light. Only then did the turnover rate begin to decline.

No union employee enjoys a strike. Everyone, including the Union member, suffers some from his participation in a work stoppage. But that is his choice! Not a choice made lightly but one which could effect the lives of his whole family, their home, education, hopes and future! But it is still the worker's choice.

We passed the time of "slavery" in the 1800's! We passed the time of the "public servant" in the 1960's! Now we are living in the time of the "public employee" and the same options given to workers in the private sector should be given to the public sector employees.

The argument that public employees are different from private sector employees when it comes to the right to strike just doesn't hold water. Although strikes in either sector usually have an immediate negative effect on the public, as was pointed out earlier on Boulder, the end result of those strikes can also be beneficial to the public.

I don't think that Montana's experience in public sector strikes has been bad at all over the past two years. Montana has had a total of thirteen (13) public sector strikes in the last two years. When you consider that in that same time frame we have entered into legal collective bargaining for all public employees including teachers, and some nurses, and that the strikes we have had have included all types of public employees excercising their rights for the first time, Montana's experience has been relatively mild.

I can't promise you that there won't be more public sector strikes in the future, but I can tell you that valuable experience has been gained by both the Employers and the Employees during the past two years which in all probability will diminish the prospects of recurring strikes. No one likes a strike but lack of experience in the actual collective bargaining process has probably led to "little other choice" in some of those past strikes.

Mr. Chairman, Members of the Committee, It seems to me to be most premature to present this type of legislation to you for your concurrance at this early date. We need time to work things out in the collective bargaining process. We don't need further restrictions on this process.

I would like to point out one more item. New York City probably has one of the most punative strike laws in the country and it is less than successful. AFSCME has over 100,000 members in New York City and has had several strikes. All of these strikes probably would have occurred whether or not the City had a no-strike law. In other words, If the employees feel justified in committing a work stopage WHETHER OR NOT IT IS LEGAL they will probably do it! To require employees to either quit or accept their conditions of employment without choice is going back into the middle ages. The people we are talking about are employees not serfs!

Mr. Chairman, Members of the Committee, I respectfully request that you give this legislation a "DO NOT PASS" recomendation. Lets get on with the process of Collective Bargaining not accept or quit.

I thank you for the opportunity to speak before you.

Respectfully submitted,

International Union of Operating Engineers

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

202 Powell Street
WRITER'S ADDRESS

LOCAL UNION NO. 927 CITY Anaconda STATE Montana 59711

January 30 19 77

TESTIMONY * SENATE BILL 163

We of the International Union of Operating Engineers, Local #927 of Anaconda, Montana are in extreme strong opposition to this irresponsible legislation. The ultimate solution is NOT taking away the right to strike to ALL public employees, instead, you as representatives, should do some deep soul searching of your own. Case in point - Both the State and Unions agree on wage-fringe benefits increase only to be state awarded by you the legislators. Then you all adjourned leaving chaos in your wake, leaving absolutely no alternative for the Unions but to strike. Who's to blame? Unions? The State labor consultants? I think not..

Now you wish to rectify the situation by eleminating the right to strike. I will say this, you representatives are either a brave hardy lot, or darn fools. You must realize labor won't just sit idely by and do nothing and be used a door mats. I believe your constituants should all take a good hard look at who they voted in to represent them.

The whole bill with all of its amendments should die in the committee for the far reaching reprecussions will surely generate. Our Union highly recommends - DO NOT PASS.

Taking away the right to strike would make a shambles out of the word Democracy - turning the state into a totaliarianism form of government. There must be a system of checks and balances and the right to strike hits that bill. The best cure or solution for avoiding a strike is to communicate. Both sides must bargin in good faith. There should be absolutely NO work stoppage just as long as both sides are willing and carries out THEIR responsibilities entrusted to them by the people they represent. Again, our Union I.U.O.E. #927 of Anaconda recommends DO NOT PASS.

Thank you.

Respectfully submitted

(1)

1/31/77 9:30 A.M.

Senate Labor and Employment Committee

S.B. 163

Mr Chairman and members of the Committee

For the record my name is Larry Mayer President and Chief executive officer of Retail Clerks union Local # 991 Missoula Mont.

Mr. Chairman: our local union represents public employees in state dept., county system and the city and county of missoula

We go on record in opposition to S.B. 163 for the following reasons.

1. Taking away the right of public employees to strike when collective bargaining breaks down after going thrugh all of the process in the collective bargaining act. the steps being mediation and fact finding by the board of personnel appeals, leave the public employees with no recourse to get a contract settled. there would be no collective bargaining

(2) History proves in the public and private sector that over 90% of all contracts negotiated are settled without a strike.

(2) MAYER

very few times does a strike happen

(3) I think if you took away the right to strike you would have more strikes then you have had in the past.

(4) We have to remember that we have a new collective bargaining law in Montana and it is going to take a few years to get it moving smoothly. the strikes that have happened in the last couple of years have been because of the process of negotiating new contracts trying to work within in the ever changing guidelines setup under the new collective bargaining law.

(5) finally we believe that the unions and Public employees should be given the opportunity to work out their problems at the collective bargaining table and the collective bargaining laws which are not to old. The right to strike is the only hammer that the unions

(3) MAYER

Contract settled.

We reccomend a do not Pass

thank you

Lonny Mayer

Mr. Chairman, members of the committee, my name is Gene Fenderson. I am the Assistant Chief of the Labor Relations Bureau, Personnel Division, State of Montana.

I come before you today to oppose Senate Bill 163 for a number of reasons.

First, the amendment proposed to the collective bargaining act does not address how a dispute between the employer and employee organization will be settled. There will always be controversies on any given subject in labor relations, and there must be a means to settle them.

The alternative to the right to strike is compulsory arbitration, which brings up a number of other problems that I believe would be unacceptable to both the Executive Branch and the Legislative Branch of government.

First, I believe it would be invalid and unconstitutional under Articles 8 and 11 of the Montana State Constitution for the elected officers of a city, county, school board, or the Legislature to sign away their right and obligation to set and distribute public tax dollars. Going to compulsory arbitration would be allowing a person or persons that did not have that authority to do just that.

Two examples where this has been tested in the courts of other states are:

1. The City of Manhattan of the State of California v. Barry Bagley (Fire Fighters) in September of 1976. The California Supreme Court not only ruled it was unconstitutional to agree to binding arbitration covering wages, but where it was unconstitutional to even put the question on the ballot to see if the citizens of that city wanted binding arbitration.

2. The second case I would bring to your attention was in August of 1976, where the Colorado Supreme Court struck down a binding arbitration clause for wages in the city of Greely City Charter Amendment as an unconstitutional delegation of authority of elected officials.

All told, I believe there have been somewhere around 15 cases across the United States where binding arbitration over wages has been declared illegal.

The second thing I would like to bring to your attention is the psychological fact of the right to strike versus binding arbitration for both management and the employee.

First, the employee, if a contract has expired, a man comes home to his family and says that he is going down to his union hall that night to see if they should vote on going out on strike or not. This becomes a question of real importance to his family. Will it be able to make the mortgage payments, car payments, and so on? If he comes home and says he is going to vote on whether they should go to binding arbitration, this puts a totally different light on the subject.

On management's point of view in the public sector, the question of binding arbitration is sometimes an out for those elected officials who do not want to face their responsibility as caretakers of public funds, or the fact that they may not be paying a competitive wage to their workers.

Lastly, I would point out to you that only 2 strikes have occurred in the jurisdiction of State government since the Collective Bargaining Bill was posted, one that was legal and one that was not. Also, there have only been 14 strikes statewide since the law was posted. I believe this is proof that the present right to strike has been treated with the utmost care by both sides, considering the hundreds of contracts that have been negotiated across this state.

Mr. Chairman, members of the committee, I urge you to give the proposed amendment a do not pass recommendation.

Thank you.