

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

February 7, 1977

The twelfth 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 with Senator Mehrens excused.

CONSIDERATION OF SB 86: An act requiring the Commissioner of Labor to determine the standard wages and contractors to submit weekly reports of wages paid.

Senator Lloyd C. Lockrem, Jr., District 32, Chief Sponsor of this bill, introduced this bill to the Committee. SB 86 makes two changes from the Davis Bacon Act. One involving predetermined wages and the other to have contractors send to the public officer a signed report of the wages paid to employees. This act only comes into play here in the state, there is no federal involvement. We have to either make it workable or repeal it, for it does nothing in its present state. It would make those contractors with closed shop agreements far more competitive. There has been no increased costs as yet.

Terry Bass, representing Montana Contractors Association, appeared in support of this bill. We support SB 86 as written.

Tony Softich, representing Administration of Labor Standards Division, appeared in support of this bill. SB 86 is known as the Little Davis Bacon Act which establishes predetermined minimum wages in public works contracts. This is very important to contractors and workers alike. This bill intends to assure that all contractors have an opportunity to enter into competitive bidding on an equal basis, and assures workers of proper wages. As the act is presently written, more clarification and enforcement is needed for contracting agencies, contractors and workers. Amendments have been submitted towards this. (See attached testimony and amendments)

Ernie Post, representing Montana State AFL-CIO also appeared in support of SB 86. He explained why the amendments were made. As written under the bill, every contractor would have to report to the public officer every week a signed report of the wages. That would be very hard on the contractor. These amendments would provide for competitive bidding, reasonable enforcement and avoid worker unrest. We want to make this bill workable and enforceable. We think these amendments are more than needed and will provide clarity for everyone.

Vincent Bosh, representing Montana State Branch of Operating Engineers and Local 400, appeared in support of this bill. If we turn from the Davis Bacon Act, our contractors that employ the union people will be in an unfair place and unfair unions.

Senator Lockrem stated that he would agree on amendments. The structure of most offices now are in a dual role and most of them have already set up the weekly statement report. It is not that much work. I would like to get this bill in a workable form. The amendments are ambitious and would at least get us moving.

General discussion was then held by the committee. The effective date would be somewhat of a problem because the majority of the contracts expire on April 31. Terry Bass also stated he would go along with the amendments. Mr. Softich stated it is very difficult to define a Montana resident. John Bobinski will look up and see when a person is really a Montana resident and present his information to the committee.

CONSIDERATION OF SB 264: An act limiting to a county the area in which a standard prevailing rate of wages may be determined.

Senator Harold L. Dover, District 24, Chief Sponsor of the bill, introduced SB 264 to the committee. This bill is actually looking at SB 86 a little differently. There are eight or nine counties in the State of Montana that are heavy labor counties and under collective bargaining. Many of the other counties are low income counties and do not have the money to compete with the laboring counties. They do not take into consideration the problems that these small rule scales have. There are different scales for different jobs and no way can the smaller ones be in competition with the large counties. SB 264 purposes local employment. It is only fair to local people to get the jobs that are open in their towns. We should set the scale by the county lines.

There being no further proponents to SB 264, Senator Lee asked for the opponents.

Tony Softich, representing Administration of Labor Standards Division, appeared in opposition to this bill. It would present a monumental task to determine wages in each county without a formula and provide contractors under collective bargaining to enter into competitive bidding and deny such contractors from other counties an opportunity to undertake various contracts. (See attached testimony.)

Ernie Post, representing Montana State, AFL-CIO, appeared in opposition to SB 264. I am somewhat amazed that a contractor would come up with such legislation. The local people will be more competitive in this area. It would be giving non-union jobs

the right to be competitive among themselves. This bill only discriminates against labor.

Vincent J. Bosh, Montana State Branch of Operating Engineers, and Local 400, appeared in opposition to this bill. I have to be opposed to this bill. We took an obligation many years ago to negotiate contracts with union contractors. If this law was put into effect, our union contracts would go down the drain. There would be no more competition. I want to support our local contracts in the state. They are in the majority.

Harold Dover stated that the change that has taken place in this bill everyone would get along with. We are discriminating against the tax payer now. There are differences in our communities and this should be taken into consideration. I don't see how my bill is going to effect the labor counties.

General discussion was then held by the committee.

CONSIDERATION OF SB 272: An act to clarify the licensing of crane operators.

Senator Chet Blaylock, Chief Sponsor of this bill, introduced SB 272 to the Committee. Senate Bill 272 refers to crane and hoist licenses. It concerns the requirements of the crane operators and the years of experience. It was agreed on to amend this bill and to consider both tons and boom length instead of just one.

Terry Bass, representing Montana Contractors Association, appeared in support of this bill. We are proposing three amendments. The first amendment is to amend page 1, section 1, line 17. Strike: "or", Insert: "and". Amend page 1, section 1, line 14. Strike: "or", Insert: "and". And the third amendment to amend page 2, section 1, line 15. Strike: "or", Insert: "and". The reason for these changes is that the bill as presently written needs more reinforcement. We are saying to get more inspection and safety.

Bill Potts, representing Missoula County Trade and Labor Council, appeared in support of this bill. This is a clean up of the crane licensing law. The need for this is that it is necessary to more effectively administrate the law and insure safe operations of cranes in the state. We agree on the changes that should be made.

Vincent J. Bosh, Montana State Branch of Operating Engineers, appeared in support of this bill. Senate Bill 272 is a very important bill to us. It has a lot of merit in its original form and with the amendments. We agree with the amendments.


General discussion was then held by the committee. Senator Nelson was concerned about the written examinations that an applicant must pass to obtain an engineers license. There are old-timers who may not know how to read or write. Mr. Briggerman, Division of Workers' Compensation, explained that in cases such as these, an oral examination would be given. Mr. Bass explained that the word "written" was used for uniformity in the procedure and could not be changed.

Senator Blaylock made a motion that the committee accept the amendments submitted by Mr. Bass. The motion carried unanimously.

Senator Blaylock then moved that Senate Bill 272 DO PASS. All members voted "aye" except Senator Nelson voted "nay".

ADJOURN:

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


Robert E. Lee, Chairman

LABOR & EMPLOYMENT RELATIONS COMMITTEE

Date 2/7

[illegible]

SENATE LABOR COMMITTEE

BILL 86, 264, 272

VISITORS' REGISTER

DATE 2/7

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Larry Huss	Montana Contractors Assoc	272	Amend	
Tony Seltich	Salmon Standards	86-264	86 Amend	264
12	Montana County Timber Assoc	272	Amend	
W. J. Biggsman	Dir of Workers Compensation	272		
W. H. Gafferty	Dir of Workers Compensation	272		
Wm. J. Bahr	I.U.O. Local 400	272	✓	
W. J. Seltich	I.U.O. Local * 400	272	✓	
Ernest Post	Montana State AFL-CIO	86 272	✓	
Ernest Post	" " " "	264		✓
Ray B...	Mont. Cont. Assoc	86 272	X	X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

2/17

LABOR

BILL NO.

VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
Linda Price			
Carl Pope			
Jan Williams	Williams Coast Co		
Andy Skinner	Skinner Enterprises		
My N. Bann	Mont. Cont. Assoc		
William Olson	Mont. Contractors Assn.		
Robert H. Stoebe	Operating Engineers Local #400		
Bill W. B. W.	Missoula County Trades Council Mont. AFL CIO		
Barney Powell	myself		
Don Thompson	myself		

I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION OF THE DEPARTMENT OF LABOR AND INDUSTRY.

SENATE BILL 86 SERVES 2 PRINCIPAL FUNCTIONS, FIRST, DELETING REPETITIVE LANGUAGE, AND SECOND, REQUIRING SUBMISSION OF PAYROLL RECORDS TO CONTRACTING AGENCIES.

SECTION 41-701, WHICH THIS BILL ADDRESSES, IS KNOWN AS THE LITTLE DAVIS BACON ACT WHICH ESTABLISHES PREDETERMINED MINIMUM WAGES IN PUBLIC WORKS CONTRACTS.

IN THE CONSTRUCTION INDUSTRY THIS IS ONE OF THE MOST IMPORTANT PIECES OF LEGISLATION TO CONTRACTORS AND WORKERS ALIKE.

IT INTENDS TO ASSURE THAT ALL CONTRACTORS HAVE AN OPPORTUNITY TO ENTER INTO COMPETITIVE BIDDING ON AN EQUAL BASIS, AND ASSURES WORKERS OF PROPER WAGES.

HOWEVER, AS THE ACT IS CURRENTLY WRITTEN, MORE CLARIFICATION AND ENFORCEMENT IS NEEDED FOR CONTRACTING AGENCIES, CONTRACTORS AND WORKERS, AND I SHALL SUBMIT APPROPRIATE AMENDMENTS TOWARDS THIS END.

SURELY REGULATIONS COULD HAVE BEEN ADOPTED, BUT TO HAVE DONE SO WOULD HAVE BEEN AN INFRINGEMENT OF LEGISLATIVE PREROGATIVE, AS WILL BE CLEARLY SEEN BY THE AMENDMENTS I RECOMMEND IF WE ARE TO MEET THE FULL OBJECTIVE OF THIS LEGISLATION.

THE BIGGEST AMOUNT OF OUR CONTRACTORS INTERESTED IN PUBLIC WORKS ARE UNDER COLLECTIVE BARGAINING AGREEMENTS AND WAGE RATES ARE MUTUALLY NEGOTIATED. THOSE RATES SHOULD BE THE PREDETERMINED MINIMUM RATES IN PUBLIC WORKS CONTRACTS IF THESE CONTRACTORS ARE TO HAVE EQUALITY IN BIDDING ON SUCH PROJECTS.

THERE IS NO OTHER METHOD TO DETERMINE MINIMUM WAGE IF EQUALITY IS TO BE AFFORDED.

MANY CONTRACTORS DO NOT PROVIDE THE SAME RATES OF WAGES, PARTICULARLY THOSE CONTRACTORS FROM ADJACENT STATES THAT ENTER INTO CONTRACT WITHIN OUR STATE.

TO ENCOURAGE CONTRACTORS TO COMPLY WITH THE LAW, A SINGULAR SHEET SHOULD BE INSERTED INTO SPECIFICATIONS OF THE CONTRACT CALLING THEIR ATTENTION TO THE LAW.

TO MINIMIZE THE COST TO CONTRACTORS, PAYROLL RECORDS FOR THE PROJECT SHOULD BE SUMMITTED TO THE CONTRACTING AGENCY ONLY WHEN REQUESTED BY THE DEPARTMENT OF LABOR AND INDUSTRY.

GENERALLY, COLLECTIVE BARGAINING CONTRACTS ARE UNIFORM IN EACH COUNTY OR AREA, HOWEVER, THERE ARE SOME SO CALLED "IN-PLANT CONTRACTS" WHICH DO PROVIDE LOWER RATES, AND SOME CONTRACTORS ATTEMPT TO UTILIZE THE LOWER RATES ON PUBLIC WORKS CONTRACTS. THIS SHOULD BE CLARIFIED SO THAT THE HIGHEST PREDETERMINED MINIMUM WAGE RATE MUST BE USED FOR ANY SPECIFIC CLASSIFICATION OF WORK.

THE ACT ALSO PROVIDES A PENALTY OF \$25.00 PER DAY PER MAN FOR VIOLATION OF THE ACT AND THE COMMISSIONER OF LABOR AND INDUSTRY MAY MAINTAIN AN ACTION IN DISTRICT COURT TO RECOVER ALL SUCH FORFEITURES DUE, BUT ONLY AFTER THE COMPLETION OF THE PROJECT AND ACCEPTANCE BY THE CONTRACTING AGENCY, WHICH WOULD AMOUNT TO THOUSANDS OF DOLLARS.

THIS IS LIKE CLOSING THE BARN DOOR AFTER THE HORSE IS GONE.

FOR THE BENEFIT OF THE CONTRACTOR, THERE SHOULD BE A PROVISION THAT UPON A COMPLAINT OF VIOLATION, THE DEPARTMENT OF LABOR AND INDUSTRY SHOULD INVESTIGATE THE COMPLAINT UNDER THE PROVISIONS OF CHAPTER 13, TITLE 41, R.C.M. 1947 (PAYMENT OF WAGES) DURING THE LIFE OF THE CONTRACT, AND ENDEAVOR TO BRING ABOUT COMPLIANCE PRIOR TO PURSUING THE LEGAL ACTION PROVIDED IN THE ACT.

THIS ACT HAS BEEN AMENDED SEVERAL TIMES, BUT ALWAYS LACKED CLARITY TO CONTRACTING AGENCIES, CONTRACTORS AND WORKERS.

THE AMENDMENTS THIS OFFICE RECOMMENDS WOULD PROVIDE FOR COMPETITIVE BIDDING AND CLARIFY THE OBLIGATIONS OF EVERYONE ENTERING INTO PUBLIC WORKS CONTRACTS, PROVIDE REASONABLE ENFORCEMENT, AVOID WORKER UNREST AND POSSIBLE WORK STOPPAGES, AND AVOIDANCE OF LEGAL ACTIONS AGAINST THE DEPARTMENT OF LABOR AND INDUSTRY IN DETERMINATIONS OF MINIMUM WAGE AND ENFORCEMENT OF THE ACT.

AMENDMENTS TO SENATE BILL 36

AMEND TITLE TO READ:

AN ACT TO GENERALLY REVISE SECTION 41-701 R.C.M. 1947,
REQUIRING THE COMMISSIONER OF LABOR AND INDUSTRY TO DETERMINE THE
STANDARD PREVAILING RATE OF WAGES; PROVIDING FOR PROCEDURES FOR
COMPLIANCE OF THIS ACT; PROVIDING PROCEDURES TO INSURE PAYMENT OF
PREVAILING RATE OF WAGES; PROVIDING FOR SUBMISSION OF PAYROLL
RECORDS; PROVIDING FOR HIGHER RATE OF WAGES WHERE 2 OR MORE
AGREEMENTS ARE IN EFFECT; PROVIDING FOR NOTICE OF THIS ACT IN ALL
CONTRACTS.

PAGE 2

LINE 9 AFTER "TRAVEL ALLOWANCE PROVISIONS", ADD:

"AND APPRENTICESHIP AND TRAINING PROGRAMS IN
EFFECT"

LINE 10 AFTER "BY OTHER CONTRACTORS", ADD:

"UNDER COLLECTIVE BARGAINING AGREEMENT"

LINE 23 AFTER "ABOVE MENTIONED PROVISIONS IN IT", ADD:

"SHALL CONTAIN ON A SINGLE PAGE OF THE CONTRACT
IN BOLD FACE TYPE, STANDARD PREVAILING RATE OF
WAGES INCLUDING FRINGE BENEFITS FOR WORK BEING
PERFORMED UNDER THIS CONTRACT AS DETERMINED BY
THE COMMISSIONER WILL APPLY.

PAGE 4

CHANGE LINES 5, 6, AND 7 TO READ: "SUBMIT
PAYROLL RECORDS TO CONTRACTING AGENCY UPON

REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY"

PAGE 5

LINE 8 AFTER "COLLECTIVE BARGAINING AGREEMENTS", ADD:
"PROVIDED THAT WHERE TWO OR MORE COLLECTIVE
BARGAINING AGREEMENTS EXIST THE HIGHER RATE SHALL
PREVAIL WITHIN THAT SPECIFIC JOB CLASSIFICATION
AS DETERMINED BY THE COMMISSIONER"

ADD NEW SECTION:

"UPON RECEIPT OF WRITTEN COMPLAINT OF POSSIBLE VIOLATION
OF THIS ACT THE DEPARTMENT OF LABOR AND INDUSTRY SHALL
INVESTIGATE THE COMPLAINT UNDER PROVISION OF CHAPTER 13,
TITLE 41, R.C.M. 1947 DURING LIFE OF THE CONTRACT AND
SHALL ENDEAVOR TO BRING ABOUT COMPLIANCE PRIOR TO PURSUING
LEGAL ACTION AS PROVIDED IN THE ACT"

ADD NEW SECTION:

"THIS ACT EFFECTIVE UPON PASSAGE AND APPROVAL."

S.B. 264

I AM TONY SOFTICH, ADMINISTRATOR OF THE LABOR STANDARDS DIVISION, DEPARTMENT OF LABOR AND INDUSTRY.

I APPEAR IN OPPOSITION TO S. B. 264 ONLY BECAUSE IT WOULD PRESENT A MONUMENTAL TASK TO DETERMINE WAGES IN EACH COUNTY WITHOUT A FORMULA, AND PROVIDE CONTRACTORS UNDER COLLECTIVE BARGAINING AGREEMENT TO ENTER INTO COMPETITIVE BIDDING, AND DENY SUCH CONTRACTORS FROM OTHER COUNTIES AN OPPORTUNITY TO UNDERTAKE VARIOUS CONTRACTS.

THERE ARE 2 MAJOR CATEGORIES OF WAGE DETERMINATION. ONE IS BUILDING CONSTRUCTION, THE OTHER IS HEAVY AND HIGHWAY. THEY COVER 14 MAJOR CRAFTS, EACH CRAFT CONTAINING VARIOUS SKILLS BROKEN INTO JOB CLASSIFICATIONS.

IN THESE CRAFTS THERE ARE NOT LESS THAN 338 JOB CLASSIFICATIONS, EACH REQUIRING A SEPERATE WAGE SCALE. FOR INSTANCE, OPERATING ENGINEERS HAVE 132 JOB CLASSIFICATIONS, EACH ONE DESIGNED FOR VARIOUS TYPES AND SIZES OF EQUIPMENT. THE TEAMSTERS HAVE 82, THE LABORERS 54, AND DOWN TO 1 FOR ASBESTOS WORKERS.

THE RATE OF WAGES VARY IN BUILDING CONTRUCTION FROM HEAVY AND HIGHWAY IN MOST EVERY CLAISSIFCATION.

UNDER S. B. 264 FOR EVERY PROJECT UNDER PUBLIC WORKS, A TASK FORCE WOULD BE REQUIRED FOR A WAGE DETERMINATION, WHICH WOULD STILL BE SUBJECT TO JUDICIAL REVIEW AND POTENTIAL LIABILITY ACTION AGAINST THE DEPARTMENT.

THIS COULD BE AND ADMINISTRATIVE NIGHTMARE REQUIRING MUCH PERSONNEL AND A COSTLY EXPENDITURE TO THE STATE.

THE RECOMMENDATION THIS OFFICE PROPOSED IN S.B. 86, WHICH

ADDRESSES ITSELF TO THE SAME QUESTION, WOULD RESOLVE THE PROBLEM OF PREDETERMINED MINIMUM WAGES IN PUBLIC WORKS CONTRACTS, AND I RECOMMEND A DO NOT PASS ON SENATE BILL 264.

JOB CLASSIFICATIONS IN EACH CRAFT

ASBESTOS	1
BOILERMAKERS	4
BRICKLAYERS	8
CARPENTERS	7
ELECTRICIANS	5
IRONWORKERS	3
LABORERS	54
MARBLE MASONS & CEMENT MASONS	2
OPERATING ENGINEERS	132
PAINTERS	29
PLUMBERS	4
ROOFERS	4
SHEET METAL WORKERS	3
TEAMSTERS	82
<hr/>	
14 TOTAL TRADES	338

Mr. Chairman and members of the committee:

My name is Bill Potts. I live at 1627 South Fifth Street West, Missoula. I am Safety Representative of the Missoula County Trades and Labor Council and Safety Chairman of Local 885, United Paper Workers. I wish to testify in favor of Senate Bill 272.

This is a clean-up of the crane licensing law. The need for this is that it is necessary to more effectively administrate the law and insure safe operation of cranes in the state.

Labor, the employers, and the Division of Workers Compensation were consulted and have agreed on the changes.

I will be glad to answer any questions the members of the Committee have.