

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

March 4, 1977

The twentieth 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.

ROLL CALL: All members present.

CONSIDERATION OF HB 612: An act to clarify the meaning of personal staff exempted from the state classification and compensation plan.

Representative Joe Brand, District 28, Chief Sponsor of this bill, introduced HB 612 to the committee. This bill will clarify the meaning of personal staff exempted from the state classification and pay plan. The present law does not adequately determine what is meant by personal staff. This bill tries to define what personal staff means.

Pat Estenson, representing the Department of Administration, appeared in support of HB 612. This bill is intended to address a situation which exists within the classification and pay system. Within the classification system, personal staff from elected officials are exempt from the provisions of the classification and pay plans act, and do not have the right to file a classification appeal. HB 612 would give the Department of Administration the authority to develop criteria which would assure that only the personal staff, having direct input in policy determinations would be exempt from the classification and pay plans. (See attached testimony)

Tom Schneider, representing Montana Public Employees Association, appeared in support of HB 612. We currently have a situation where there is no set guide lines on who will be exempt from the state classification and pay plan. This bill is to protect the pay plan and have equal pay for equal work.

There being no further proponents, Senator Lee called for any opponents to HB 612.

Georgia Rice, Superintendent of Public Instruction, appeared in opposition to HB 612. HB 612 would seriously impair the ability of a state elected official to carry out the mandates of the people. Appointed officials would control the staff of elected officials such as the State Superintendent. An elected official could be destroyed by hiring approval of incompetent people by the personnel director of the Department of Administration. The elected officials should maintain the responsiveness of their personal staff to the voters who elected them. (See attached testimony)

General discussion was then held by the committee. The positions to be exempt would be determined by the Department of Administration. The elected official has no say. Georgia Rice stated that she was concerned with what exactly exemption meant.

CONSIDERATION OF HB 582: An act to require railroads to install portable radios and holder chargers in track motor cars.

Representative Jerry Feda, District 4, Chief Sponsor of this bill, introduced HB 582 to the committee. The number one reason for this bill is for safety operation of trains. Radios are important to section crews so they can report any deficiencies in the trains they notice as the trains go by. This is a necessity for the safety of everyone involved.

Carl Knutson, representing Brotherhood of Maintenance of Way Employees, appeared in support of HB 582. We are the people on the railroad who build the railroads and maintain the railroads. This bill was introduced in the House as a safety measure. We amended the bill to what we think would suit all railroad people. One reason for opposition is the cost of the radios would be very much. In the past five years, there were many motor cars that were damaged. The cost of these cars is much more than it would cost to install radios. We are the people working in the hills who need these radios for safety.

Representative Joe Brand, District 28, appeared in support of HB 582. I have been a conductor on the Milwaukee Railroad and I think I know my job fairly well. We have a law book that we go by that is very complicated. Safety is the first duty. All departments have to work together to have safety. If they had radios they could notify the engineers of the defects on the train. They can then immediately take care of the situation and save a lot of damages.

Kenneth D. Clark, representing United Transportation Union, appeared in support of HB 582. I also am a locomotive engineer. This bill is one of the better solutions for the safe operation of trains.

Ernie Post, representing Montana State AFL-CIO, appeared in support of HB 582. We have to look at this bill as a safety measure. It is one of the most important railroad bills.

There being no further proponents to HB 582, Senator Lee called for any opponents.

Charles J. Bryan, representing the Burlington Northern Railway, appeared in opposition to HB 582. The railroads themselves are concerned about the safety of their employees. The equipment we provide is the safest we can get. He explained the daily line ups where the crew men make sure the trains are operating efficiently

as they pass. They will signal to the engineer if something is wrong. The track inspector is given a portable telephone and can call the despatcher whenever anything goes wrong. There are a number of telephone houses along the way which any one can use when needed. These examples show that we do have communications. We feel we have the most profitable means for protection. If we did provide radios, our rules prevent them from use in certain areas. The communication is erratic. Therefore, we do not feel the radios would be an accurate safety device.

J. H. Bolitho, representing the Milwaukee Railroad, appeared in opposition to HB 582. In Montana we have 71 motor cars in the Milwaukee Road, Six of them are presently equiped with radios. We do not feel it is necessary to have a mandatory requirement for radios on all motor cars. We do recognize a need for radios and are providing them where they are needed. We would prefer to use radios where they are needed and not on every car.

Gorham E. Swanberg, representing Montana Railroad Association, appeared in opposition to HB 582. Cost is not the factor we are talking about. We are talking about safety. We are putting radios in some cars and it should not be a mandatory item.

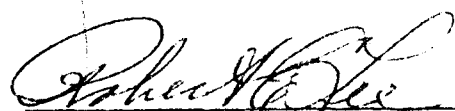
FURTHER CONSIDERATION OF HB 468: An act to provide that Workers Compensation Insurers are excepted from fictitious group provisions and need not have commission approval of group rates.

Josephine Driscoll, representing the Insurance Department of the State of Montana stated that they had a problem with a conflict in the title of the bill stating they need not have commission approval of group rates. She also stated that the bill doesn't tell what is meant by a group. The bill doesn't give any guidelines to go by in who can form a group. She suggested that some amendments be made and then she could support the bill.

John Bobinski and Senator Richard Smith will get together with Josephine Driscoll to work out some amendments and then report back to the committee.

ADJOURN:

There being no further business, the meeting was adjourned at 11:00 a.m.


Robert E. Lee, Chairman

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/4

[illegible]

BILL HB 612

VISITORS' REGISTER

DATE 5/4

[illegible]

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

HOUSE BILL 612

TESTIMONY OF PAT ESTENSON, CHIEF, CLASSIFICATION BUREAU

I AM PAT ESTENSON, CHIEF OF THE CLASSIFICATION BUREAU, PERSONNEL DIVISION, DEPARTMENT OF ADMINISTRATION. I AM A PROPONENT FOR HOUSE BILL 612.

THIS BILL IS INTENDED TO ADDRESS A SITUATION WHICH EXISTS WITHIN THE CLASSIFICATION AND PAY SYSTEM. WITHIN THE CLASSIFICATION SYSTEM, PERSONAL STAFF OF ELECTED OFFICIALS ARE EXEMPT FROM THE PROVISIONS OF THE CLASSIFICATION AND PAY PLANS ACT, AND DO NOT HAVE THE RIGHT TO FILE A CLASSIFICATION APPEAL.

59-904(9) PERSONAL STAFF OF THE ELECTED OFFICIALS ENUMERATED IN ARTICLE VI, SECTION 1, OF THE CONSTITUTION OF MONTANA ARE EXEMPT FROM SECTIONS 59-909, 59-910, 59-911 OF THIS ACT, AND SECTION 82A-1014.

CURRENTLY ELECTED OFFICIALS HAVE EXEMPTED THE FOLLOWING NUMBER OF POSITIONS UNDER 59-904(9):

<u>ELECTED OFFICIAL</u>	<u>EXEMPT POSITIONS</u>
GOVERNOR	40
STATE TREASURER	1
STATE AUDITOR	8
SUPERINTENDENT OF PUBLIC INSTRUCTION	251
LIEUTENANT GOVERNOR	<u>44</u>
TOTAL	344

THE SALARIES FOR THESE 344 POSITIONS, BECAUSE THEY ARE EXEMPT FROM THE CLASSIFICATION AND PAY PLANS, ARE SET BY THE ELECTED OFFICIALS. IN ADDITION, THE EMPLOYEES IN THESE POSITIONS DO NOT HAVE THE RIGHT TO FILE A CLASSIFICATION APPEAL. THIS SITUATION MAY RESULT IN THESE EMPLOYEES RECEIVING SALARIES WHICH ARE GREATER OR LESS THAN OTHER EMPLOYEES IN STATE GOVERNMENT PERFORMING THE SAME WORK.

IN MOST OTHER STATE JURISDICTIONS, PERSONAL STAFF OF ELECTED OFFICIALS ARE EXEMPT FROM THE CLASSIFICATION PLAN. USUALLY, THOSE STAFF MEMBERS HAVE DIRECT INPUT ON POLICY MAKING DECISIONS.

HOUSE BILL 612 WOULD GIVE THE DEPARTMENT OF ADMINISTRATION THE SPECIFIC AUTHORITY TO DEVELOP CRITERIA WHICH WOULD ASSURE THAT ONLY THE PERSONAL STAFF, I.E., THOSE HAVING DIRECT INPUT IN POLICY DETERMINATIONS WOULD BE EXEMPT FROM THE CLASSIFICATION AND PAY PLANS.

I URGE THIS COMMITTEE TO RECOMMEND THE ADOPTION OF HOUSE BILL 612.

The citizens of Montana elect state officials to carry out specific programs during their administration. If passed H.B. 612 would seriously impair the ability of a state official to carry out the mandates of the people. Several considerations should be utmost in your mind when you consider H.B. 612.

1. Appointed officials would control the staff of elected officials such as the State Superintendent. This has many ramifications. It would force the elected official to rely on employees that do not necessarily support the philosophy, programs or policy which the elected official has pledged a commitment to the people of Montana.
2. The elected official, chosen by the people for a specific office, is the people's choice and apparently the most qualified according to the people to make decisions in each official's respective area. In education, H.B. 612 would give an individual who does not necessarily understand the educational needs of the citizens of Montana control over who delivers the services, what services are delivered and how they are delivered to schools.
3. An elected official could be destroyed by hiring approval of incompetent people by the personnel director of the Department of Administration.
4. An elected official responsible to the electorate must be able to compete with other entities and private businesses to hire the most competent staff to serve the people.

5. The Superintendent's staff is responsible for many state and federal programs as dictated by you, as legislators, and by the federal government. It is, therefore, not logical that someone outside the office determine the employment of the staff to carry out your mandates.
6. In this time when the public demands accountability of elected officials, the accountability would be diminished if the elected official's staff were controlled by another department.

I urge you to vote against H.B. 612 and maintain the responsiveness of the elected officials and their personal staff to the voters who elected them.



STATE OF MONTANA

OFFICE OF
E. V. "SONNY" OMHOLT

STATE AUDITOR
COMMISSIONER OF INSURANCE
INVESTMENT COMMISSIONER
CENTRAL PAYROLL SYSTEM

HELENA, MONTANA 59601

March 4, 1977

Honorable Robert (Bob) E. Lee and Members
Committee on Labor and Employment
Montana State Senate

The State Auditor of the State of Montana is opposed to HB 612, entitled "AN ACT TO CLARIFY THE MEANING OF PERSONAL STAFF EXEMPTED FROM THE STATE CLASSIFICATION AND COMPENSATION PLAN; AMENDING SECTION 59-903 R.C.M., 1947".

Article VI, Section 1, of the 1972 Constitution, provides for six elected officers in the executive branch of State Government. The State Auditor is one of these six officers.

Section 59-904, R.C.M., 1947, exempts nine different classes of officers and employees from the State classification and compensation plan. The first eight classes are totally exempt from the plan. The ninth exemption provides:

"personal staff of the elected officials enumerated in articles VI, section 1, of the constitution of Montana are exempt from sections 59-909, 59-910, and 59-911 of this act, and section 82A-1014."

This provision was added to section 59-904 in a 1974 amendment. Rather than exempt the "personal staff" from all provisions of the act, subsection (9): allows an elected official to determine how many people he needs on his personal staff; allows the elected official to increase the size of his personal staff, or to increase the salary of a member of his staff without the prior approval of the Department of Administration; does not allow a member of an elected official's personal staff recourse with the Board of Personnel Appeals.

This provision allows elected officials the flexibility necessary to maintain a professional, competent staff. It has long been recognized that any elected official has the right to choose his own staff. These staff members are directly and immediately responsible to the elected official, who, in turn, is responsible to the public.

HB 612 would allow the Department of Administration prior approval as to who is, or is not, a member of an elected official's "personal staff". This determination would be based on criteria developed by the Department of Administration.

This would, in effect, give an appointed State employee the power to dictate to an elected State official, who he may include on his personal staff. The criteria developed by the Department of Administration, whether written in a broad or narrow manner, would be subject to potential abuse. Since each of the elected State officials' duties are vastly different, they should retain the right to determine how many they need on their personal staff, and the salaries of the staff.

This is not an area for interference by the State bureaucracy. It is an area that is and should be totally within the discretion of the individual elected officials. To take away any of this discretion, would hinder an elected official in the performance of his duties.


E. V. "SONNY" OMHOLT
State Auditor

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Terry Tribune
SPACE AGE COMMUNICATION?

Railroads Behind Times

A man stands on a hill to watch a train signal a mile and a quarter away. His job is to warn those working on the track of an approaching train.

Last Friday, this system did not work. As a result, a man died.

For whatever reason it didn't work, we wonder if there isn't a better way.

Well, let's see . . .

A suburban office worker drives up to his garage door, presses a button to open the garage door, and drives in.

A burglar attempting to enter a warehouse trips a mechanism that dials the police department, warning of his presence.

The lunar vehicle Rover I roams the surface of the moon, relaying information back to earth, hundreds of thousands of miles away.

Yes, we definitely feel there must be a better method of communication than this.

Pictured above is the Terry Cowboy band which appeared in 1927 when they played for C. birthday and the 4th of July celebration group was called the City Band in 1927 they became known as the Cowboy band and ceased to exist in the mid-50's.

Recently Judge Walter Flachsenner and Mrs. Joe Turnbull, representing one of the members of the band performing at the

Judge Flachsenner returned to D. Flachsenner is hospitalized.

Draft Board Urges To See Service

Selective Service System Executive Secretary, who manages Terry, Montana local board, says the current congressional impasse over extending the induction authority has created great uncertainty among area draft-age men.

Selective Service Director Curtis Tarr has recently stressed the importance of explaining to our draft-age men the high probability that induction will resume in the near future and that the current action in the Congress is not likely to affect any registrant's chance of being drafted.

Our local board has been

Agent Phil Wilson has
Sacramento of Penance:
Pellion: Sunday 9:30 a.m.