

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

March 9, 1977

The twenty-second 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.

CONSIDERATION OF HB 700: An act concerning public employment relations, renaming the merit system council and the board of personnel appeals, transferring certain functions and requiring the establishment of a grievance procedure.

Representative Joe Brand, District 28, Chief Sponsor of this bill, introduced HB 700 to the committee. HB 700 concerns public employment relations, provides for a reorganization of the administration of the state worker and is a major effort to establish an equitable statewide personnel system for all state employees. HB 700 places the state in a much stronger position with regard to personnel management. It provides the mechanisms for the state to treat all of its employees the same. HB 700 strengthens the merit system concepts and eliminates considerable duplication. (See attached testimony)

Jack Crosser, representing the Department of Administration appeared in support of HB 700. It is in complete accord with the reorganization which will extend the benefits to all employees throughout the state. It eliminates duplication by bringing the merit system employees under a statewide personnel system. We are not doing away with the merit system, we are extending the merit principles to all state agencies.

Duane Johnson, representing the Personnel Division of Department of Administration, appeared in support of HB 700. HB 700 would concur with the state wide classification pay plan. It would make available a non organization grievance procedure for all state employees. It would allow us to more closely control EEO. HB 700 strengthens the present system.

Joan Uda, representing Office of Budget and Program Planning, appeared in support of HB 700. HB 700 would eliminate duplication, by abolishing the independent merit system. Under present law the non-merit system employees have no procedure available for grievances and this bill will establish a grievance procedure for state employees. (See attached testimony)

Bill Gosnell, Associate Fiscal Analyst, appeared in support of HB 700. HB 700 puts the state in a much stronger position in regards to personnel management and administration. It provides for treating all employees the same, both union and non union. HB 700 puts the present Board of Personnel Appeals in the position of being a labor relations board. (See attached testimony)

LABOR & EMPLOYMENT RELATIONS
March 9, 1977

Page 2

General discussion was then held by the committee. HB 700 would create a centralized listing of state employment opportunities, making these opportunities more widely known. By renaming the Merit System Council, it is not creating a new board but simply expanding the functions of the Merit System.

CONSIDERATION OF HB 736: The reciprocal agreement for Collection of Wages Act of 1977.

Representative William Menahan, District 90, Chief Sponsor of this bill had Mr. Softich introduce HB 736 to the committee.

Tony Softich, representing the Labor Standards Division, appeared in support of HB 736. This bill will allow the Department of Labor and Industry to enter into reciprocal agreement with other states that have similar laws for payment of wages when an employer leaves the State of Montana. Under present law when an employer moves, or is located in another state, the Department of Labor endeavors to collect payment of wages. Without reciprocity this is a useless gesture. Reciprocity does have an effective clout without resorting to legal action. (See attached testimony)

CONSIDERATION OF HB 346: An act pertaining to public employee group insurance contracts, to clarify judicial branch participation and to permit collective bargaining of the terms and conditions of group insurance.

Representative JoEllen Estenson, District 32, Chief Sponsor of this bill, introduced HB 346 to the committee. The purpose of this bill is to insure negotiating relating to group health insurance. This bill would allow for the creating and maintaining of respective group insurance programs. It directs the public employees to allow meaningful negotiations. HB 346 would allow the state to negotiate a group insurance plan which is in effect of \$10 a month. These changes are necessary in order that the guidelines of collective bargaining are met.

Duane Johnson, representing the Personnel Division, Department of Administration, appeared in support of HB 346. We support collective bargaining under the conditions of group insurance.

Lonny Mayer, representing the Retail Clerks, appeared in support of HB 346.

Don Judge, representing Montana State AFL-CIO, appeared in support of HB 346. This bill will provide a partial solution for the problems facing state employees concerning their health and accident insurance. It will allow individual employee groups to negotiate the terms of their insurance coverage. At the present time this cannot be done for such employee groups. (See attached testimony)

ADJOURN:

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

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

45th LEGISLATIVE SESSION -- 1977

Date 3/11

HB 700
HB 736

SENATE

LABOR

COMMITTEE

BILL

HB 346

VISITORS' REGISTER

DATE

3/91

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Testimony of Representative Joe Brand

RE: EXPLANATION OF HOUSE BILL NO. 700

House Bill 700 concerns public employment relations. House Bill 700 provides for a reorganization of the administration of the state work force. House Bill 700 is a major effort to establish an equitable statewide personnel system for all state employees.

Section 1 renames the "merit system council" as the "personnel review board." It provides that the Department of Administration will establish personnel policies and procedures for all state agencies subject to review and approval by the personnel review board.

The effect of section 1 is to extend the merit principles to all state agencies. Under the present law, the merit system administers to approximately 20% of the state work force. At the same time, the Department of Administration is responsible for establishing personnel policies for all of state government under section 59-913. Section 1 consolidates the management of the state work force and strengthens the application of merit system principles to personnel management. Under present law, merit system agencies have veto power over policies and rules established by the Merit System Council. Under this proposed legislation, the Merit System Council, renamed the Personnel Review Board, would approve policies and procedures established by the Department of Administration to insure compliance with merit system principles. House Bill 700 in no way jeopardizes the receipt of federal funds by merit system agencies; indeed, House Bill 700 strengthens the present system.

Section 2 amends the definitions section of the collective bargaining act (Title 59, chapter 16) to rename the "Board of Personnel Appeals" as the "Public Employment Labor Relations Board." The Board of Personnel Appeals presently administers the collective bargaining act for all public employees, hears and rules upon classification appeals by state employees, and hears and rules upon work-related grievances for highway department employees only. Section 2, in conjunction with Section 6, makes the present Board of Personnel Appeals strictly a labor relations board. Section 6 removes the classification appeal function from the Board of Personnel Appeals, which is renamed the Public Employment Labor Relations Board; Section 5 places the classification appeals function under the Personnel Review Board. The effect is to consolidate the hearing of all classification appeals and all non-union work-related grievances under the Personnel Review Board and to remove the conflict that exists when a board that mediates labor disputes also hears classification appeals.

Under the present system, only highway department employees and employees who are members of unions have access to a work-related grievance procedure. Non-union employees do not have access to a formal grievance process. House Bill 700 provides for the creation of a grievance procedure for all non-union employees. Its effect is to make the state as an employer a better and more efficient manager of its personnel.

Under the present law, the Board of Personnel Appeals mediates labor disputes and hears and rules upon classification appeals. This dual function presents a conflict. As the Select Committee on State Employee Pay noted in its interim study, a conflict exists when the hearing officer for the Board mediates a labor dispute involving an employee's classification and then is the hearing officer on a classification appeal involving the same classification. The conflict exists when a person functions as a mediator, judge, and jury. House Bill 700 eliminates this conflict; classification appeals are placed under the Personnel Review Board.

Section 3 simply eliminates a reference to the Board of Personnel Appeals in section 59-1603 of the collective bargaining act by striking the words "of personnel appeals". The Board is defined in the definitions section of the collective bargaining act; therefore, it need not be spelled out in the rest of the act. Moreover, as noted, section 2 of House Bill 700 renames the Board of Personnel Appeals as the Public Employment Labor Relations Board.

Section 4 complements section 1. Section 4 changes the name of the Merity System Council to the Personnel Review Board. The composition of the council remains the same. Section 4 also attaches the renamed council to the Department of Labor and Industry for administrative purposes. This was done by amendment in the House to alleviate some of labor's qualms about the bill. The renamed council could be attached to any department--military affairs, for instance--without changing its purpose. You will note that the renamed council is specifically authorized to hire its own personnel--the Department of Labor and Industry may not and should not hire the board's personnel. For the department to do so would present a conflict--the renamed council is and would continue to be an impartial citizens' board.

Section 5, as noted earlier, transfers the classification appeal function from the Board of Personnel Appeals to the Personnel Review Board. It also provides that the Personnel Review Board will establish a grievance procedure for all non-union work-related complaints. It should be noted that the Board of Personnel Appeals does not hear work-related grievances except from highway department employees. Indeed, in 1974 the Board of Personnel Appeals unanimously voted not to hear employee work-related grievances. Such grievances should be heard by an impartial citizens' board according to merit system principles. The Board of Personnel Appeals is not an impartial citizens' board--rather, it is a labor relations board consisting of two representatives each of labor and management and one neutral. For this reason, too, classification appeals should be heard by the Personnel Review Board.

Section 6, as mentioned earlier, establishes the Board of Personnel Appeals as strictly a labor relations board. The deleted material in section 6 relates to classification appeals.

Section 7 repeals several sections that are no longer applicable if House Bill 700 is enacted. Sections 32-2504 - 32-2505.3, which are repealed, pertain to the grievance mechanism for highway department employees only. The grievance procedure for these

employees would be the same as that for all employees under the auspices of the Personnel Review Board. Section 82A-709, which also is repealed, abolishes the board of highway appeals and transfers its functions to the Board of Personnel Appeals. The Personnel Review Board will, under HB 700, carry out those functions.

In short, House Bill 700 places the state in a much stronger position with regard to personnel management. It provides the mechanisms for the state to treat all of its employees the same. It eliminates considerable duplication, and it strengthens the merit system concepts--grievance, recruitment, referral, testing, etc., procedures.

Attached are items from the Governor's office and from the Office of the Legislative Fiscal Analyst that amplify the points made above.



State of Montana
Office of The Governor
Helena 59601

THOMAS L. JUDGE
GOVERNOR

Testimony in Support of House Bill 700

The Office of the Governor fully supports House Bill 700, and urges consideration of the following specific points:

1. House Bill 700 will establish a grievance procedure for all state employees. At present, non-union, non-merit system employees have no procedure available for grievances, which is an unfortunate and potentially troublesome gap in the system. In 1974, the executive branch apparently requested the Board of Personnel Appeals to act as an independent grievance board for such appeals, and the Board refused, on the legally correct basis that it lacked jurisdiction to hear such appeals. Allowing such a gap to continue is unfair to the many state employees who under present law have no remedy for work-related grievances.
2. There is an inherent conflict in the statutes authorizing the Board of Personnel Appeals to hear both employee classification grievances and union grievances. Classification grievances fall into a different category from union grievances, and are much more closely related to general non-union employment grievances. House Bill 700 would remove the conflict, and would move Montana much closer toward establishing a comprehensive and fair appeals system for all state employees.
3. House Bill 700 would eliminate duplication, by abolishing the independent merit system, which covers only 20% of all state employees, and by bringing the merit system employees under a statewide personnel system which would encompass all necessary merit system features. The bill would do this without creating a new board, but simply by renaming the Merit System Council and expanding its functions.
4. The Governor's Office has received numerous citizen complaints about the lack of information about state job openings. There is at present no central listing of available state positions and thus no single office to which an interested citizen can go for such information. House Bill 700 would respond affirmatively to this citizen complaint, by creating a centralized listing of state employment opportunities, thus making these opportunities more widely available.
5. There is every likelihood that equal opportunity (EEO) complaints, such as the complaint involving Montana State University, will continue to be filed, probably at an accelerating rate. Establishing a centralized and unified personnel system, a readily available list of state job openings, and a grievance procedure for all state employees, would provide the state with necessary tools for handling EEO complaints. House Bill 700 would, for example, provide the means for gathering information as to whether or not, or in what areas, the state is in compliance with EEO requirements, and would allow the state to take general corrective actions before grievances arise. It would also provide a means for resolving specific difficulties before they reach the formal complaint stage, and would provide the state with some means of defending EEO suits. These measures may result in very large savings for the state, both in terms of time spent in resolving such complaints, and in actual dollars.



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59601
406/449-2986

JOHN D. LAFEVER
LEGISLATIVE FISCAL ANALYST

February 17, 1977

TO: Representative Joe Brand
FROM: William S. Gosnell, Associate Fiscal Analyst *W.S.G.*
SUBJECT: H.B. 700

There are several points that should be considered on H.B. 700:

1. State's present position regarding personnel administration:

Presently the state has a highly fragmented and decentralized personnel system that operates without any meaningful policies or standards. The pay and classification plan instituted in 1975 has corrected a lot of the problems but we still have a long way to go. Because of the lack of consistent policies and standards, we are vulnerable to EEO type actions. Further, we find it difficult to manage our personnel.

The merit system council was established in 1940 to provide a merit hiring process for those agencies supported by federal grant-in-aid funds.

The merit system now administers to approximately 2,200 positions in state government, or 20% of the state workforce. With the implementation of the pay and classification plan in 1975 for all state employees, duplication became apparent. The merit system council is

supposedly responsible for the maintenance and review of the classifications, specifications and pay equity situation for the 20% of the work force. The director of personnel is responsible under 59-9 for 100% of the work force.

There are two specific functions that the merit system council now provides that the state does not: a grievance mechanism for non-union members under the MSC, and the preparation of registers for hiring purposes by those grant-in-aid agencies.

H.B. 700 provides a grievance mechanism for all non-union employees, not just those 20% under the council.

The budget proposal, recently passed by the elected officials subcommittee chaired by J. D. Lynch, provides for the second function--the recruitment, referral, testing and register function. The budget, as passed, does not fund the merit system council or bureau, but rather centralizes the personnel function under one office. Duplication will be virtually eliminated by H.B. 700, and consistent policies and standards can be developed for all state employees.

2. Question of jeopardizing federal funds as a result of H.B. 700.

I personally do not see how the feds can view the proposal as anything more than a strengthening of the present system. Merit system concepts (grievance, recruitment, referral, testing, etc.) will be available to all state agencies, not just those presently under the merit system council.

All of the rudiments of a merit system will be present under H.B. 700. Again, to run a separate personnel system for just 20% of the state work force is uneconomical, duplicative and unnecessary.

3. "Who develops" the rules and regulations, and who reviews and approves them, is really a moot point.

Chapter 59-9 already requires that the department of administration be responsible for this. The personnel policies and standards are exempt from the Administration Practices Act, but any party can request a public hearing on any rule or policy made by the department of administration. Further, if the personnel review board reviews the rules and policies and feels strongly about any of the proposals, I am quite sure that the department of administration would take that into consideration before promulgating the rules. Keep in mind that the board would hear all classifications appeals, discrimination and EEO grievances and personnel grievances. I do not think the personnel division would consciously make an enemy of the board by promulgating unacceptable rules and policies, especially if that board reviews the appeals resulting from those policies.

4. Mr. Tom Schneider, MPEA, said that the board of personnel appeals was designed specifically to hear classification appeals. That simply is not true. The BPA resulted from legislation passed in 1973 - the Collective Bargaining Act, 59-16 and 82A-1014. Classifications did not become a reality until the 1975 session. "Personnel appeals" encompasses a lot more than just classification appeals.

Further, testimony given this past summer to Senator Robert's interim committee (which has resulted in S.B. 80) indicated that there

is inherent conflict in the fact that the BPA hears both collective bargaining agreements involving classifications and classification appeals.

In summary, H.B. 700 puts the state in a much stronger position in regards to personnel management and administration. It provides the wherewithal to treat all employees the same - both union and non-union. It puts the present BPA in the position of being a labor relations board, which it was intended to be in the first place. It eliminates substantial duplication, and provides a mechanism to reduce or eliminate discrimination, thereby protecting ourselves against EEO suits. I am surprised the feds are not already threatening to "pull their funds" because of our inadequacies in this area.

Finally, put yourself in the place of a young job applicant - either high school or college graduate.

1. There is no central recruitment or referral system.
2. ESD, MSC and each individual state agency presently advertises for state jobs - each in their own way, at a high cost to the state.
3. The individual applicant must go to the local ESD office to see what vacancies may exist (despite a Governor's directive, not all agencies are listing their vacancies with ESD); go to the MS bureau to see what vacancies may be listed there (again, only 20% of total potential jobs); and then go to each agency to see if there are vacancies. This is unnecessary, costly, and extremely frustrating to applicants.



STATE OF MONTANA

Office of the Governor

Budget and Program Planning

Capitol Building - Helena, Montana 59601

Thomas L. Judge

Governor

Michael G. Billings

Director

FISCAL IMPACT OF HOUSE BILL 700:

1. Additional duties of the Personnel Division, Department of Administration, under House Bill 700:

House Bill 700 would require the Personnel Division to carry out the exact duties now performed by the Merit System Council's staff for employees covered by the merit system. It would also impose certain additional duties for other state employees.

Method of providing services and funding:

A. Employees:

Present staff of Merit System Council:	11 FTE's
	3 CETA positions

Disposition of staff under House Bill 700:

To be transferred to Personnel Division for carrying out duties in regard to employees covered by merit system:	7 FTE's
---	---------

Total decrease in staff due to House Bill 700:	4 FTE's
--	---------

3 CETA positions

Note: Please note that the Personnel Division's budget provides for a total of 15 new FTE's, not including the 7 FTE's mentioned above, for expanded activities not related to House Bill 700. If the individuals presently holding the Merit System Council staff positions which will not be transferred to the Personnel Division under House Bill 700 are qualified for the new FTE positions, they can be hired for the new Personnel Division positions.

B. Funds: The Personnel Division's budget includes the funds which previously went to the Merit System Council for its operations. Any other Personnel Division operating costs under House Bill 700 will be absorbed by the Personnel Division.

2. Personnel Review Board under House Bill 700:

House Bill 700 creates the Personnel Review Board by renaming the Merit System Council. The number of members would remain the same. The Board's functions would be similar to the Council's:

(1) The Board would "review and approve" merit system rules for employees governed by the existing merit system. Existing law requires the Council to "make" such rules.

(2) The Board would hear complaints arising from the operation of the state classification and pay plan and from other conditions of employment, for all state employees. At present, the Board of Personnel Appeals hears classification and wage complaints, and the Merit System Council hears merit system grievances. There is no existing procedure for other types of employment grievances for non-merit system, non-union state employees.

Method of providing services and funding:

A. Employees:

The Personnel Review Board will require a staff of 4 FTE's
These will be provided as follows:

4 FTE's transferred to the Personnel Review Board:

From the Board of Personnel Appeals (employees to handle classification and wage appeals):	3 FTE's
--	---------

From the Personnel Division, Department of Administration:	1 FTE
--	-------

Total needed by the Personnel Review Board:	4 FTE's
---	---------

B. Funding: Accompanying the transferred FTE's will be their office equipment, and the portions of the budgets of the Board of Personnel Appeals and the Personnel Division to cover their salaries, benefits, and operating costs.

3. Total Fiscal Impact of House Bill 700: -0-

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

THIS BILL WOULD ALLOW THE DEPARTMENT OF LABOR AND INDUSTRY TO ENTER INTO RECIPROCAL AGREEMENT WITH OTHER STATES THAT HAVE SIMILAR STATUTES FOR PAYMENT OF WAGES WHEN AN EMPLOYER LEAVES THE STATE OF MONTANA.

PRESENTLY THERE ARE 12 STATES, INCLUDING OUR NEIGHBORING STATES OF NORTH AND SOUTH DAKOTA, WYOMING AND IDAHO THAT HAVE SUCH STATUTES.

SIMILAR STATUTES ARE TO BE SOUGHT BY STATES HAVING LEGISLATIVE SESSIONS THIS YEAR, AND SUBSEQUENT YEARS BY THOSE STATES THAT DO NOT HAVE RECIPROCITY.

PRESENTLY WHEN EMPLOYERS MOVE, OR ARE LOCATED IN ANOTHER STATE, THE DEPARTMENTS OF LABOR, AS A COURTESY, ENDEAVOR TO COLLECT PAYMENT OF WAGES, BUT WITHOUT RECIPROCITY OFTEN IT IS A USELESS GESTURE, AS AN EMPLOYER CAN COMPLETELY IGNORE A REQUEST FOR PAYMENT OF WAGES INCURRED IN ANOTHER STATE.

RECENTLY OUR OFFICE HAS BEEN SEEKING ASSISTANCE OF OTHER STATES FOR COLLECTION OF WAGES ON AN AVERAGE OF ONCE A WEEK, BUT BY CONTRAST, OUR SERVICES ARE SOUGHT LESS THAN 20 TIMES A YEAR.

RECIPROCITY DOES HAVE AN EFFECTIVE CLOUT WITHOUT RESORTING TO LEGAL ACTION, AND I URGE A DO PASS ON THIS BILL WITH CONCURRENCE OF THE COMMISSIONER OF LABOR.

MONTANA STATE COUNCIL No. 9

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

COUNCIL OFFICERS

Maurice J. Mulcahy, President
522 North Franklin Street
Butte, MT 59701
Phone: 792-8560

Albert Johnson
12 Wathena Drive
Butte, MT 59701
Phone: 494-3949

George E. McCammon, Treasurer
530 Idaho
Helena, MT 59601
Phone: 442-4259



Jerry Wurf
International President

William E. Lucy
International Secretary-Treasurer

March 9, 1977

TESTIMONY ON HOUSE BILL 346

Mr. Chairman, Members of the Committee, I am Don Judge, Field Representative for the American Federation of State, County and Municipal Employees Union, AFL-CIO, and I appear today as a proponent of House Bill 346. This bill, if passed, will provide a partial solution for the problems facing state employees concerning their health and accident insurance. It would allow individual employee groups to negotiate, with their employer, the terms of their insurance coverage and also with whom the coverage would be provided. At the present time this cannot be done for such employee groups.

This piece of legislation is long overdue but I'm sure will be well received by state employees just the same. It will go a long way toward giving some true meaning to collective bargaining for state employees.

With the rising costs of everyday living and in this case, medical expenses, state employees have shouted from every corner of the state about the injustice of not being able to try and obtain health and accident insurance at a more reasonable cost.

COUNCIL STAFF

Headquarters
Cooke St.
Butte, MT 59601
Phone: 442-0760

George L. Hammond
Executive Director

Stanley W. Gerke
Field Representative

Don R. Judge
Field Representative

TESTIMONY ON HOUSE BILL 346

March 9, 1977

PAGE 2

Our members in state government have felt the impact of increases in health and accident insurance coverage over the past several years with no effective way of countering the blow. We have employees who have related to us the frustration of on one hand receiving a salary increase and on the other hand having it nullified by an off-setting insurance premium increase.

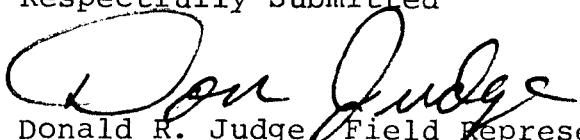
Although the ultimate goal of organized labor has been to secure entirely employer-paid premiums, we feel that this bill goes far towards giving some immediate relief for the past insurance increases amounting in the neighborhood of 30%, and in almost perfect timing with the next projected salary increases we also anticipate an insurance premium increase of between 14% and 30%.

I don't pretend to be an expert in the field of insurance but I do know how to express the desires of our membership. One of the most frequent of those desires has been the request for us to obtain for that membership the right to seek insurance in a plan other than those being provided by the current insurers: Blue Shield and Blue Cross. This bill provides for that very thing. I don't know if there are other insurers who can offer what our members are requesting but this bill gives them the opportunity to try.

I won't belabor this point but I again want to express to you our entire support for this piece of legislation. We heartily endorse this bill and recommend it be given a do pass approval.

I thank the committee for the time to present our case.

Respectfully Submitted



Donald R. Judge Field Representative
Montana Council 9, AFSCME, AFL-CIO