

MINUTES OF THE MEETING
SELECT COMMITTEE ON EMPLOYEE COMPENSATION

7:30 P.M.
February 15, 1979
Room 104
State Capitol Building
Subject: House Bill 528
House Bill 437

The meeting was called to order at 7:45 P.M. by Senator Himsl. All members of the committee were present.

Representative South, the principal sponsor of House Bill 528 presented his bill, explaining the legislation is an act relating to review of positions and changes in classification under the state classification and pay plan for state employees. It also amends Section 2-18-203, M.C.A.

The Chairman then called for proponents of the bill.

Bill Goznell, representing the Department of Administration, Personnel Division, strongly supports the repeal of 2-18-203(4) and the proposed amendatory language to 2-18-203(1) as shown in House Bill 528. He went on to highlight 2-18-202 which is relevant to the problem. He stated that 2-18-202 contains the guidelines for classification. He further went on to say that 2-18-203(1) and (4) are mutually exclusive, explaining that the Department can not perform its duties under (1) without conflicting with (4) and vice versa. In connection with this, he explained the Unfair Labor Practice that had been brought by Montana Public Employees Association against the State.

Mr. Goznell continued, stating that the 1975 amendment to the Classification and Pay Plan and the management prerogative in the Collective Bargaining Act supersedes the original mandate. Mr. Goznell is now required to negotiate on each and every change made to the classification plan if it affects an employee within a bargaining unit.

He stated that the Personnel Division has hired a trained Test Development Specialist to assist in the process of validating minimum qualifications. This process involves detailed study of job requirements to show that the minimum qualifications are directly related to the work performed.

He concluded his testimony by stating that if this amendment is adopted, it will put the Classification Pay Plan back to the pre-1975 status.

Jack Noble, representing the Montana University System spoke in favor of the adoption of the legislation. He stated that they urge adoption of the bill.

There were no further proponents to the bill.

Don Judge, the Executive Director of AFSCME, AFL-CIO, spoke in opposition to the legislation. He stated that if the bill were passed, it would remove collective bargaining and the right to negotiate on factors relevant to state employee classification programs. He went on to mention some of the problems with the State's Pay and Classification Plan. He stated that the flagrant arbitrary abuse of authority of the Personnel Division can probably most pointedly be seen in a recent action of the division wherein they disregarded the 1977 Legislature and created a rule which the Legislature specifically removed from legislation at that time. In particular, Mr. Judge was referring to the provision which would have allowed agency directors the authority to grant merit increases to certain employees. He explained that after the Legislature had adjourned, the Personnel Division adopted a pay plan rule which granted such discretionary authority to agency directors.

Mr. Judge concluded by urging the committee to kill this bill and direct the Personnel Division to return to the bargaining table and bargain in good faith.

The next opponent of the legislation was Cordell Brown, who represented the Department of Public and Health Service Workers, MFT, AFT, AFL-CIO. Mr. Brown presented a hand-out to the committee and went on to explain the same. He stated that the bill presents a direct conflict and may even partially negate the rights granted public employees in State government to negotiate freely on wages. He stated that the subject of job classifications is a mandatory subject of collective bargaining as defined in the decisions of the National Labor Relations Board. He went on to say that he felt House Bill 528 had been filed in retaliation for the successful unfair labor practice charge filed by keypunch operators against the State of Montana. He summed up his testimony by stating that the language in the law which the State seeks to remove, destroys any check at all against the repeated abuses of power granted to the Department of Administration in administering the classification and pay plan.

Pat McKittrick, representing the Joint Council of Teamsters, was the next opponent of the bill. Mr. McKittrick stated that he feels that the Classification Plan and Collective Bargaining are instruments to be used by the parties at the negotiation table to resolve differences as they arise. He stated that the bill does not serve the best interests of the employees.

Jerry Driscoll, representing the Laborer's Local #98 in Billings, spoke on behalf of the custodian and maintenance workers at Eastern Montana College. They also oppose the legislation. He cited two cases that were applicable to the pay plan. Speaking on behalf of his union, Mr. Driscoll feels that the State has been violating the Classification Pay Plan and asked for a Do Not Pass.

Jim McGarvey from Helena, spoke in opposition to the bill. He represented the Montana Federation of Teachers and stated that the classification plan that they have to work with is so fraught with faults that it could not possibly work. He feels that this is the fault of the Personnel Department and certainly not the fault of the unions and the legislators. He said that he feels that the job descriptions are totally fouled up and that they tried to make the plan work because of the hearings procedure and the law. They feel they kept their word and stated that the problem is really with another group. The plan is disregarded and the employers just move people up and down and put them in wherever they fit. He feels that they are making a bad situation worse with House Bill 528. It simply is misunderstood.

There being no further opponents, Senator Himsl then presented Representative South who stated that there is a basic conflict between the pay plan and collective bargaining. He stated that the unions would like to see the pay plan defeated. Representative South went on to say that he believes in equal pay for equal work and asked what would happen if we didn't have a pay plan. He stated that they will still be bargaining for salary and working conditions. He concluded by saying that problems that have happened in the past will happen in the future unless we change the law. He requested the committee give this legislation a Do Pass for the benefit of all state employees.

After a short question and answer period between the committee and the opponents and proponents, the hearing was closed on House Bill 528.

At this point the committee went into Executive Session to consider House Bill 437. Representative South, the sponsor of the legislation, stated that this bill is an attempt to get a good, uniform insurance plan for state employees. He explained that the University System is exempt from membership in the plan, but they have the option if they wish to join. He went on to explain the amendments as shown in the attached Exhibit 1, and concluded by stating that this is a compromise bill and that he would appreciate action be taken on it tonight so that it can go to the Senate and they can begin working on it.

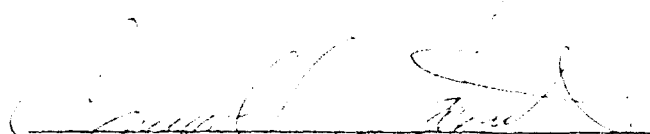
Representative South moved to put the amendments into House Bill 437 as submitted. The question vote passed unanimously.

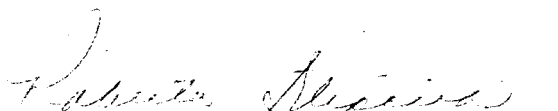
Representative Gerke made a motion that House Bill 437 Do Pass as Amended. Motion carried unanimously.

At this point Senator Fasbender made a motion that House Bill 528 Do Pass.

With Representative Tropila voting No, all other members of the committee voting Yes, House Bill 528 passed the committee.

There being no further business, the meeting was adjourned at 9:00 P.M.


Chairman


Secretary