

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 12, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present.

SENATE BILL 280: Chairman Hazelbaker, sponsor of SB 280, told the Committee that this bill is an act to clarify and revise holiday and leave time for employees of public hospital districts.

Chairman Hazelbaker asked Senator Goodover, Vice-Chairman, to conduct the meeting since Senator Hazelbaker was sponsor of the bill.

Senator Hazelbaker stated that if this bill should be adopted, it would in no way harm the care of the patients in the hospitals.

PROPOSERS OF SENATE BILL 280: Mr. Chad Smith, representing the Montana Hospital Association, stated that the purpose of the bill is to treat hospital employees the same regardless of where they are employed. He further stated that this bill will have no effect on the large hospitals, but only on the smaller ones.

Mr. Charles Eckberg, representing Chouteau County District Hospital, Fort Benton, Montana, spoke in support of SB 280.

Mrs. Mary Frances Eloff, representing Chouteau County District Hospital, Fort Benton, Montana, also spoke in support of SB 280. Her testimony is attached.

Mrs. Jean Rittal, representing Prairie County Hospital District, Terry, Montana, spoke in support of SB 280. Her testimony is attached.

Mr. Bill Tash, representing Barrett Memorial Hospital, Dillon, Montana, spoke in support of SB 280. He left a prepared statement with the Committee.

Mr. Joseph Jordan, representing Chouteau County District Hospital, Fort Benton, Montana, also spoke in support of SB 280. His testimony is attached.

Mr. W. Boyce Clarke, representing himself, concurred with the testimony of Jean Rittal. His statement is attached.

Irene Gumm, County Clerk and Recorder, Prairie County, Terry, Montana, also supports SB 280.

Mr. Charles Chappell, representing Chouteau County District Hospital, Fort Benton, Montana, spoke in support of SB 280. His testimony is attached.

OPPONENTS OF SENATE BILL 280: Mr. Edward Mares, representing the Montana Nurses' Association, spoke in opposition to SB 280. He left copies of Opinion No. 102 by Attorney General, Mike Greely, with the Committee. He stated all they are trying to do is get equitable fringe benefits for the nurses. They urge that SB 280 Do Not Pass.

There was a question and answer period from the Committee.

Senator Hazelbaker asked representatives from Beaverhead and Madison counties if they had any problems with the recruiting of nurses. The representatives from those counties stated they had no problem to date in recruiting nurses.

There were general questions concerning occupancy in the various hospitals and on collective bargaining.

The hearing was closed on Senate Bill 280.

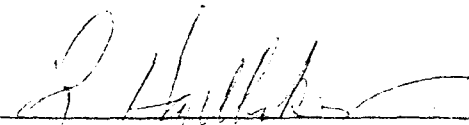
DISPOSITION OF SENATE BILL 268: Senator Dover moved that the Committee adopt the proposed amendment to SB 268. The Committee then voted unanimously to adopt the amendment.

Senator Dover moved that Senate Bill 268 Do Pass. The Committee voted unanimously that Senate Bill 268 DO PASS.

SENATE BILL 302: Senator Lowe moved that SB 302 Do Pass. There was a second by Senator Regan. A Roll Call Vote was taken and the vote was a tie (5-5). Senator Blaylock moved that SB 302 be submitted to Joint Rules Committee. The Committee agreed.

SENATE BILL 280: Senator Goodover moved that SB 280 Do Pass. There was a second by Senator Dover. A Roll Call Vote was taken on the motion. The Committee voted 7-3 that Senate Bill 280 DO PASS.

ADJOURN: There being no further business, the meeting was adjourned at 11:30 a.m.



Senator Frank Hazelbaker, Chairman

BUSINESS & INDUSTRY COMMITTEE

Date - Feb. 12

[illegible]

STANDING COMMITTEE REPORT

February 12, 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 268

Respectfully report as follows: That Senate Bill No. 268 introduced bill, be amended as follows:

1. Page 3, line 4.
Following: "than the"
Strike: "costs of the project"
Insert: "commitment"

And, as so amended,
DO PASS

P.A.

February 12, 1979

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 280

Respectfully report as follows: That Senate Bill No. 280

DO PASS

[Signature]

SENATE COMMITTEE BUSINESS & INDUSTRY

Date Feb. 12, 1979 Bill No. 280 Time 11:25

NAME	YES	NO
Pat M. Goodover, Vice Chairman	✓	
Chet Blaylock		✓
Harold Dover	✓	
Tom Hager	✓	
Allen Kolstad	✓	
Bill Lowe	✓	
John Mehrens		✓
Bob Peterson	✓	
Pat Regan		✓
Frank Hazelbaker, Chairman	✓	

Margaret Nichol
Secretary

F. Hazelbaker
Chairman

Motion: This was a vote on a DO Pass Motion on SB 280. The
motion was made by Senator Goodover and seconded by
Senator Dover. Vote 7-3

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE BUSINESS & INDUSTRY

Date Feb. 12, 1979 Bill No. 302 Time 11:15

NAME	YES	NO
Pat M. Goodover, Vice Chairman		✓
Chet Blaylock		✓
Harold Dover		✓
Tom Hager	✓	
Allen Kolstad	✓	
Bill Lowe	✓	
John Mehrens		✓
Bob Peterson		✓
Pat Regan	✓	
Frank Hazelbaker, Chairman	✓	

Marjorie L. Nichols
Secretary

F. Hazelbaker
Chairman

Motion: This was a vote on a Do Pass Motion made by Senator
Lowe and seconded by Senator Regan. 5-5 vote

(include enough information on motion--put with yellow copy of committee report.)

NAME: CHIA SIM HAT DATE: 2-12-79

ADDRESS: Box 604

PHONE: 442-2950

REPRESENTING WHOM? *Chief Clerk*

APPEARING ON WHICH PROPOSAL: 58206

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Chuck Echberg DATE: 2-12-79
ADDRESS: P.O. Box 249 Fort Benton, Mont.
PHONE: 622-3331 or 622-5189
REPRESENTING WHOM? Montrose County District Hospital/N.H.
APPEARING ON WHICH PROPOSAL: S.B. 280
DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐
COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Mary Frances Eloff DATE: 12 Feb 77

ADDRESS: Fort Benton

PHONE: 622-3884

REPRESENTING WHOM? Chouteau County District Hospital

APPEARING ON WHICH PROPOSAL: SB 280

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

CHOUTEAU COUNTY DISTRICT HOSPITAL AT FORT BENTON

P.O. Box 249

FORT BENTON, MONTANA 59442

12 February 1970

Chairman Hazelbaker, and members of the Senate Business and Industry Committee:

I am Mary Frances Eloff, payroll and bookkeeping clerk for the Chouteau County District Hospital at Fort Benton, a 32-year resident of Fort Benton, and mother of 2 children.

As a mother and a potential user of health care services, I must emphasize the point that rural hospitals are very much a necessity in east Montana. Our own hospital district covers 2,698 square miles and services approximately 4,500 people. Using this past winter as an example, there have been many days when all roads to Great Falls were physically closed due to the snow and blowing. During these times it would have been impossible for people of our county to obtain medical care in Great Falls. People in our own community had difficulty even coming to Fort Benton due to the winter weather. Some of our people have to travel close to 75 miles just to obtain medical care in Fort Benton, and Great Falls is an additional 40 miles. Just as rural communities need schools of their own, they also need their own medical services.

The economy of rural communities would be devastated if district hospitals were forced to close. We have only a 17-bed hospital and 22-bed nursing home, yet we employ approx. 50 employees. Our annual payroll is in excess of \$370,000, over \$1,000 a day. No community can afford to lose that kind of income, to say nothing of the unemployment problem generated if 50 people in one town are out of work.

I have currently been employed by Chouteau County District Hospital for 2½ years. When I interviewed for my job, I was told what wages and benefits the hospital was paying. These benefits included 13 days of sick leave per year; a portion of health insurance paid; 2 weeks paid vacation for each year worked up to five years, after five years it would be increased to 3 weeks and after ten years it would be increased to 4 weeks; 6 paid holidays plus one free holiday on my employment anniversary; plus wage increases on my employment anniversary up to 7 steps. In addition the employees receive free coffee for their coffee breaks and are able to purchase meals through the dietary dept. at a greatly reduced price. As a part time employee I would only have to work 15 hours a week to obtain prorated benefits (currently 50% of our employees are part time). At the time of my interview I was made fully aware of what I would be receiving, and I accepted the job on those conditions. If I had not felt that the benefits were adequate, I could have walked out the same door that I walked in.

At the present time the hospital has 9 employees who have been with them over 14 years, another 10 who have worked there for 6 to 12 years, 15 who have been employed from 2 to 5 years and only 11 employees with less than 2 years of employment with the hospital. This has to be proof that the employees are satisfied with the benefits the board has paid them. To the majority of these employees, job security is one of their most important benefits. They would rather have the board calling the shots as they felt they could afford to, and as we elected them to do, rather than have the State step in and burden us with additional expense. All of us can see the empty beds and know that the board is already giving us probably more than they can afford with the current occupancy problem. We don't want to increase our individual benefits at the expense of the hospital, our jobs, and the community as a whole. If we weren't satisfied, we wouldn't be working here.

Hospital districts elected their "employers". Let them continue to do the job we elected them to do.

I therefore, urge you to support the passage of Senate Bill #220.

Thank you.

NAME: James K. Rottel DATE: July 12, 1979
Pravet Community Hospital Administrator

ADDRESS: Ferry, Mt.

PHONE: 637-5511

REPRESENTING WHOM? Pravet County Hospital System

APPEARING ON WHICH PROPOSAL: Senate Bill 280

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

COMMENTS: See prepared copy

MONTANA STATE SENATE

COMMITTEE ON BUSINESS AND INDUSTRY
SENATE BILL 280

TESTIMONY IN SUPPORT--BY REPRESENTATIVES OF PRAIRIE COUNTY HOSPITAL DISTRICT

Prairie Community Hospital and Nursing Home, located at Terry, Montana, is a 20-bed combination long term care and acute care facility. Prairie County Hospital District became the operating agency of this facility July 1, 1979. This hospital district was formed by an overwhelming majority of the electors of Prairie County at a June, 1978, election. A primary reason for establishing this hospital district was that a 3-mill levy would generate funds to help operate Prairie Community Hospital and Nursing Home.

During 1977-1978 this facility suffered a severe fiscal crisis with the employees and townspeople having to sacrifice a great deal of their time and put forth great effort to prevent its closure. The formation of a hospital district was viewed as the only solution.

Now that we have the District, we are faced with the problem of inability to pay the holiday and annual leave benefits offered public employees. It is with great difficulty that we abide by the public employees personnel policies when we operate a 24-hour per day, 365-day per year service to our community.

It is not only difficult to obtain health professionals in a small community; but then to have to schedule a 3-week vacation the first year of employment for a full-time employee, is a staffing nightmare. Further, we will not be able to offer a competitive wage scale because of the cost of mandated benefits.

Limiting hospital district employees to six paid holidays per year will save Prairie Community Hospital approximately \$3,000.00 per annum. Exempting hospital district employees from the public employees annual leave policies, will save Prairie Community Hospital approximately \$4,000.00 per annum. The hospital district would then be able to offer vacation benefits they can afford.

As we continue the struggle to keep the doors open at our small, rural, marginal hospital, we rise in support of Senate Bill 280.

Prairie County Hospital District Board

L. Schuratz
Chairman

Joe L. Schuratz
Vice-Chairman

Reuben Schroeder
Trustee

Attest: James K. Pittal

Prairie County Hospital District Clerk

The Board of County Commissioners, Prairie County, by their hand and seal hereby show their approval of this Testimony and their support of Senate Bill 280.

Witness this 7th day of February, 1979, our hand and seal.

Fred Schuratz
Chairman

Charles L. Schuratz
Trustee

Attest: Ross Dune Gunn
County Clerk and Recorder

Joe L. Schuratz
Trustee

NAME: Bill Tash

DATE: 2/12/79

ADDRESS: 1200 Hwy 573 Dillon

PHONE: 683-2409

REPRESENTING WHOM? Barrett Hospital - Dillon

APPEARING ON WHICH PROPOSAL: *SB 280*

DO YOU: SUPPORT? 1/6.5 AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BARRETT MEMORIAL HOSPITAL

1260 SOUTH ATLANTIC
DILLON, MONTANA 59725

406-683-2324

February 5, 1979

The following is an analysis of the cost of annual leave and holiday benefits as per the policies that exist at Barrett Hospital and the policies that govern state employees.

For the year 1977 the estimated liability for annual leave for all personnel is \$10,215 under hospital policy. Assuming the high rate of employee turn over in the hospital, this cost could be adjusted to \$6,231 because of the one year requirement for eligibility for annual leave benefits.

For the year 1977 the estimated liability for annual leave for all personnel is \$15,324 under state policy. This represents an increase of 50% for all personnel. Considering an employee turn over adjustment based on the state policy of eligibility for annual leave benefits at six months the estimated cost would be \$12,259. This would represent an increase of 97% over the adjusted cost under the hospital policy.

The representative figures for 1978 are \$11,400 adjusted to \$6,954 under the hospital policy as apposed to \$17,100 adjusted to \$13,680 under the state policy. Again, this would reflect a 50% increase for all personnel and a 97% increase for the turn over adjusted personnel cost.

For the year 1977 the estimated cost of holiday benefits considering the hospital policy of six paid holidays is \$6,182 with an additional \$2,060 in premium pay because of the 24 Hr. per day staffing requirement for a total of \$8,242. The estimated cost of holiday benefits considering the state policy of eleven paid holidays is \$11,402 with an additional \$3,800 in premium pay for 24Hr. staffing for a total of \$15,202. This is an increase of 84% in holiday pay costs.

The reprsentative figures for 1978 are \$6,730 with an additional \$2,243 in premium pay for a total of \$8,973 under hospital policy as apposed to \$12,344 with an additional \$4,114 in premium pay for a total of \$16,458. This is an increase of 83% in holiday pay costs.

The total increase in costs for annual leave and holiday benefits under state policy as apposed to hospital policy in 1977 is \$12,988 and in 1978 is \$14,211.

The substantial increase in employee benefits as indicated above would have put our hospital in a net operating loss position for the two years. In the face of low census, the pressure to contain hospital costs from governmental agencies and the public, and the threat of mandatory wage and price controls, it would be very difficult to maintain the operation of small rural hospitals such as ours unless we are exempted from the provisions of Section 19-107, R.C.M. 1947 as proposed in Senate Bill 280.

NAME:

Joseph F. Jordan

DATE:

12 Feb 1979

ADDRESS:

Box 547 Ford Benton, Mond.

PHONE:

622-3867

REPRESENTING WHOM?

Chouteau County District Hospital.

APPEARING ON WHICH PROPOSAL:

SB 280

DO YOU:

SUPPORT?

☒

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

CHOUTEAU COUNTY DISTRICT HOSPITAL AT FORT BENTON

P.O. Box 249

FORT BENTON, MONTANA 59442

12 February 79

Chairman Hazelbaker and Members of the Senate Business and Industry Committee:

I am Joe Jordan, Chairman of the Board of Trustees for the Chouteau County District Hospital at Fort Benton, and I am here in support of Senate Bill #280.

In 1973 the Sisters of Providence informed the Advisory Board, of which I was Vice-Chairman, that they were considering moving out due to poor occupancy. In early 1974 the Sisters stated that they would be moving out at the end of the year. The people of the community had originally put up \$250,000 for the hospital when it was built, and therefore, decided that they wanted to keep it open.

An election was held to form a hospital district to purchase and operate the hospital. The Sisters brought in an appraisal team from Missoula who appraised the hospital at \$1 million. The Sisters agreed to sell the complete facility for \$350,000. The voters of the hospital district elected three trustees to oversee the purchase and operating of the hospital. Bonds were sold and the district took control of the hospital on January 1, 1975.

At that time the trustees had some question as to whether or not we were public employers, so we asked the county commissioners. They informed us that we were a separate entity. They were going to give us a maximum of 3 mills as allowed by law and beyond that we were to run the hospital. They felt that the hospital had no direct connection with the county. We later requested an opinion from the county attorney and his opinion also very clearly stated that we were not public employers; we were a separate entity and should operate as such.

It was our opinion and the opinion of the voters of the district that we should operate the hospital much the same way as did the Sisters. We adopted many of their policies and felt that we were very much in compliance with the laws of Montana. We are now being challenged by the Department of Labor stating that we are public employers and must comply with public employer standards.

We do not feel that it was the intent of the original bill creating the 3-mill levy for district hospitals to make district hospitals public employers. We contend that the intent was to provide a very small bit of assistance in the operating funds for district hospitals.

Hospitals operate 24 hours a day 365 days of the year and it is, therefore, practically impossible to compare them with offices or departments that operate 8 hours a day 5 days a week. Rural hospitals cannot and should not be expected to exceed and pay more benefits than the private hospitals pay.

It is imperative that district hospitals remain open. They provide necessary health care services to the community, plus they provide an economic boost with their large employment. Providing additional employee benefits could handicap rural district hospitals completely out of business. Surely this is not what the people of Montana want.

I therefore urge your support in the passage of Senate Bill #280.

Thank you.

NAME: W. Bruce Clark DATE: 2/12/77

ADDRESS: 1712-6th St. NW

PHONE: 252-3353

REPRESENTING WHOM? Myself personally - Private Citizens -

APPEARING ON WHICH PROPOSAL: SP-280

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Concur with testimony of Teen ^{Pittol} ~~Pittol~~ and Irene Gunn.

In Nov 1977 - this hospital was without ^{benefit} funds and employees continued to work without benefits until May 1978. During this crucial period much of the ^{non technical} work of the hospital was undertaken by volunteers. -
During this time, no complaint from employees and the ^{as well as the community} are still extremely concerned about the continuation of the facility.

W. Bruce Clark

NAME: Rosa Irene Duran DATE: 2-12-79
County Clerk & Recorder, Prairie County

ADDRESS: Terry, Mont.

PHONE: 637-5431

REPRESENTING WHOM? Pravie County District Hospital

APPEARING ON WHICH PROPOSAL: Senate Bill 280

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Charles B. Chappell DATE: February 12, 1979

ADDRESS: P.O. Box 278 Fort Benton Montana

PHONE: 622-5212 - Home 622 3719

REPRESENTING WHOM? Chouteau County District Hospital

APPEARING ON WHICH PROPOSAL: Senate Bill 280

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

CHOUTEAU COUNTY DISTRICT HOSPITAL AT FORT BENTON

P.O. Box 249

FORT BENTON, MONTANA 59442

12 February 79

Chairman Hazelbaker, and Members of the Senate Business and Industry Committee:

I am Chuck Chappell, elected Board member for the Chouteau County District Hospital at Fort Benton.

District Hospitals, as are all hospitals, are uniquely different from other public employers. Usually a public employee is hired by a state, county or city to work a normal 8-hour shift. More hours means overtime usually. Hospitals are required to operate 24 hours a day, 365 days a year. This means that we hire three times the ordinary crew to perform our obligation.

Again public employees, whether state, county, school or city are paid by budgeted funds collected as taxes and levied on the whole political area governed.

The district hospital is supported by charges made for patient care. Assistance is often given to buy a building or existing hospital, but these tax funds are only levied on the hospital district taxpayers and are legally confined to a very low amount permissible.

As a district hospital functions it must have available services 24 hours a day - even if no patients or very few patients are in the hospital at the time.

A district hospital, in a small town, with no doctor, or with the doctor not present in the community cannot accept patients. Thus provided services cannot be used until the doctor returns or arrives from out of town. Still the 24 hour service is required to be in continual operation.

Costs of running a hospital are great and continuing to inflate. We have a restricted area from which to obtain help. Nurses will usually go to the larger city hospitals. The same is true of doctors, LPNs and aides. We therefore, must depend on retired or semi-retired nurses or nurses married to other employed husbands in our town such as farmers, teachers, bankers, and their husband's promotions often take our hospital help right out of the community.

As elected members of a district hospital board we are charged with the responsibility of providing health care. Every means is used to obtain competent help, provide adequate equipment and facility and do it continuously.

Our hospital is one of the largest employers in Fort Benton. Over fifty employees take about 2/3 of our operating dollars in wages. To close is a loss of a health care facility of course, but it is also a severe economic loss to our community. Every added levy, benefit or cost, make the continuing operation of the hospital that much more difficult. Being a non-tax supported institution, unless we have patients in the hospital, we are handicapped in every effort we make. Only patient care makes our hospital carry its own load.

To keep our district hospital functioning we must hold down every unnecessary expense. We are entrusted to provide the best possible care. First, we serve the patients with the best of care. Second, we seek the best of conditions for workers at the hospital. Third we provide the best facility possible.

CHOUTEAU COUNTY DISTRICT HOSPITAL AT FORT BENTON

P.O. Box 249

FORT BENTON, MONTANA 59442

12 February 79

Page 2

These requirements are all controlled by the availability of funds, availability of qualified help and the people using our hospital so we need as well the doctor or doctors to admit our patrons.

Holidays, vacations and leaves of many sorts that are greater than normally allowed for other workers in our community act as an added burden on the hospital. Every added burden, whether inflation, benefits to all employees, and low patient load all act as a burden on our overburdened hospital. Every means has to be used to preserve our hospital.

We feel we are elected to provide hospital care. We are required to use the means and the funds available to provide that hospital care as economically as possible.

The real problem at present is inability of our Chouteau County District Hospital to obey the law. We have tried to obtain definitions of our status from the Attorney General. We are informed that we are not permitted to request such opinions. Therefore, the hospital paid for a Chouteau County attorney's opinion. Being determined by him that we were not part of the county, we were billed for and paid for his opinion.

On July 14, 1978, Mike McCarter, Assistant Attorney General, wrote Mr. Eckberg, our administrator, that - quote: answers cannot be addressed since the Attorney General may render opinions only at the request of state agencies and other specified public officials. Therefore, we understood we were not public employers, at least not able to request opinions from the state.


Yet on December 26, 1977, we had received word from the Attorney General to David L. Fuller on several items and a copy was obtained for Chouteau County District Hospital. This was Volume #37 Opinion #102. This opinion still leaves us in the dark on holidays for district hospitals as it was not addressed in the opinion.

In light of the above, we, as a hospital board, have made two separate court appearances to clarify these matters. As of this date, both court cases are unresolved and no opinion given.

We therefore, request and urge passage of Senate Bill #280 to finally determine just what district hospitals are exactly and to make it possible for Chouteau County District Hospital, through its Board of Directors, to pursue the duty of running a hospital with assurance and confidence. We were elected so to do.

We have tried as a hospital to follow as near as possible all of the recommendations of agencies and their opinions in the functioning of Chouteau County District Hospital. We appreciate the opportunity to explain our situation this morning.

Respectfully,


Charles P. Chappell

NAME: EDWARD MARES DATE: 2/12/79

ADDRESS: P.O. Box 5218, Helena

PHONE: 442-6710

REPRESENTING WHOM? MONTANA NURSES' ASSOC.

APPEARING ON WHICH PROPOSAL: SB 280

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

JAN 11 1978

DEPT. OF LABOR & INDUSTRY
COMMISSIONER'S OFFICE

VOLUME #37

Opinion No. 102

HOSPITAL DISTRICTS - Subdivisions of the county;
HOSPITAL DISTRICTS - Employees entitled to vacation and
sick leave benefits same as county employees;
COUNTY GOVERNMENT - Hospital Districts as subdivision
thereof;
SECTIONS 59-1001 and 59-1002, R.C.M. 1947;

Held: Under Section 59-1001 et seq., R.C.M.
1947, employees of county hospital dis-
tricts are employees of a subdivision
of the county and are therefore entitled
to receive the vacation and sick leave
benefits provided public employees.

26 December 1977

David L. Fuller, Commissioner
Department of Labor & Industry
1331 Helena Avenue
Helena, Montana 59601

Dear Mr. Fuller

You have requested my opinion concerning the following
question:

Are employees of county hospital districts en-
titled to receive sick and annual leave benefits
as set forth in sections 59-1001 through 59-1002,
R.C.M. 1947?

Section 59-1001 provides in pertinent part:

Annual Vacation Leave

(1) Each full time employee of the state, or
any county or city thereof is entitled to and
shall earn annual vacation leave credits from
the first full pay period of employment.

Section 59-1002 provides:

Sick Leave

(1) Each full time employee of the state or
of any county or city thereof is entitled to
and shall earn sick leave credits from the
first full pay period of employment.

To qualify for vacation and sick leave benefits under the
above provisions, an individual must be an employee of the
state, county, or city. Section 59-1007.1(2) defines em-
ployee as "...any person employed by the state, county or
city government."

An employee of a subdivision of the state or county is considered, for the purpose of this chapter, to be an employee of the governmental unit involved. Teamsters Local #45 v. Cascade County School District #1, 162 Mont. 227, 511 P.2d 339 (1973); See also, Longpre v. School District No.2, 151 Mont. 345, 443 P.2d 1; Fitzpatrick v. State Board of Examiners, 105 Mont. 234, 70 P.2d 285.

The answer to your question depends upon whether or not county hospital districts are political subdivisions of the county. The statutes concerning hospital districts are codified in Section 16-4301, et seq., R.C.M. 1947. Each district may encompass all or a portion of a particular county. They are established by vote of the district residents and are financed by public funds in the form of a property tax levied upon the property within the district. Hospital districts are governed by a board of trustees who have administrative power and authority under Section 16-4308. Among other powers, that section gives the district authority to:

- (1) Employ nursing, administrative, and other personnel, legal counsel, engineers, architects, and other qualified persons, who may be paid for their services by monthly salaries, hourly wages, and pension benefits, or by such fees as may be agreed upon.

Although hospital districts are relatively autonomous, it is my opinion that they are political subdivisions of the county for the purposes of Sections 59-1001 through 59-1003.

Sections 16-4302 through 16-4307 provide the board of county commissioners an integral role in the formation of hospital districts. A petition for the establishment of the district is first directed to the board of county commissioners and the board then conducts a hearing. The board may make boundary changes in the proposed district before calling for an election. After the voters have approved a proposed hospital district, it is then incumbent upon the board to organize the district, call for the election of trustees, and in certain instances the board of county commissioners has authority to appoint individuals as district trustees.

County commissioners have exclusive authority to levy taxes for the maintenance of a hospital district. Section 16-4309 provides in pertinent part:

The board of county commissioners must, annually, at the time of levying county taxes, fix and levy a tax, in mills, upon all property within said hospital district clearly sufficient to raise the amount certified by the board of hospital trustees.

Section 16-4310 provides that the county treasurer shall be the treasurer for the hospital district and maintain a detailed account of all tax monies paid into the account. The board of county commissioners administers the procedure for withdrawal of a portion of the district as well as the annexation and dissolution procedures of the district. Section 16-4313 further provides:

"...any assets of the district remaining after all debts and obligations of the district have been paid, discharged or irrevocably settled, shall become the property of the county.

By virtue of the relationship between the county and the district, it is clear that a hospital district is a subdivision of the county, created to provide the public with hospital service.

In an analagous situation, the Montana Supreme Court in Teamsters Local #45 v. Cascade County School District No. 1, supra, held that school district employees, other than teachers, were entitled to vacation benefits under Section 59-1001. In its decision the Court gave effect to a long line of Montana cases holding that a school district is a political subdivision and instrumentality of the state. In construing Section 59-1001 the court went on to say at P. 280:

The legislature used the term employees in its generic sense to include all employees of the state or employees of state agencies of which a school district is included.

Significantly, Section 16-4307 provides that elections for hospital district trustees are to be conducted in the same manner as elections for school district trustees.

Opinions of the Attorney General, Vol. 35, No. 71, held that a fire district is a subdivision of the county and that therefore employees of the fire district were entitled to vacation and sick leave benefits under Section 59-1001, et seq. R.C.M. 1947. That opinion states:

The plain, ordinary meaning of the language in Sections 59-1001 through 59-1009 indicates an obvious legislative intent to provide vacation and sick leave benefits to all public employees.

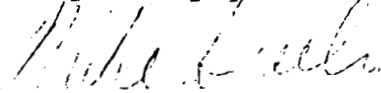
Employees of hospital districts are public employees who receive their compensation from public funds, and it has been held in other jurisdictions that employees who are paid with public funds are employees of the state or subdivisions thereof. Industrial Commission of Ohio v. Saner, 127 Ohio 366, 138 N.E. 559.

The statutes in question confer benefits upon "an employee of the state, or any county or city thereof". As hospital district employees are public employees of a political subdivision of the county, they are entitled to vacation and sick leave benefits as set forth in the above provisions.

THEREFORE, IT IS MY OPINION:

Section 59-1001 et seq., R.C.M. 1947, employees of county hospital districts are employees of a subdivision of the county and are therefore entitled to receive the vacation and sick leave benefits provided public employees.

Very truly yours,



MIKE GREELY
Attorney General

NAME: William J. Carr DATE: 2/12/50

ADDRESS: Helena, Mont.

PHONE: 442-1911

REPRESENTING WHOM? Montana Hospital Association

APPEARING ON WHICH PROPOSAL: SB 250

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

All 60 hospital members of MHA
are in support of SB 250 even
tho it affects only a small fraction
of all hospitals.
Most hospitals have 6 to 8 beds.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Phil Harris DATE: 2/14/54

ADDRESS: Box 661 F2245 Mont

PHONE: 682-4275

REPRESENTING WHOM? Andison Valley Hospital

APPEARING ON WHICH PROPOSAL: 5 B - 280

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

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE Business & Industry COMMITTEE

BILL 280

VISITORS' REGISTER

DATE 2/12/77

Please note bill no.	
	(check one)
BILL #	SUPPORT OPP.

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY