

MINUTES OF THE MEETING OF THE HOUSE LABOR AND INDUSTRY COMMITTEE  
January 8, 1981

The House Labor and Industry Committee convened on Thursday, January 8, 1981, in Room 129 of the State Capitol with Chairman Robert Ellerd presiding and all members present except Reps. Helen O'Connell and Bob Sivertsen who were excused. Rep. Vinger was removed from the committee because of scheduling conflicts.

Chairman Ellerd opened the meeting to a hearing on the following bills: HBs 11, 62, 75, 76, 77, 79.

HOUSE BILL 11

REPRESENTATIVE BARBARA SPILKER, District #32, said she was the chief sponsor of this bill at the request of the Study Committee on State Mandates and the Effects of State-owned Property on Local Governments. She said the law would establish that through collective bargaining you can establish what a work-week is (not necessarily 40 hours in a 7 day period--but averaging to 40 hours over an extended period). She mentioned the problem at Kalispell where the local government ended up paying overtime to their policemen who worked overtime hours in a 7 day period but not in an extended period, and despite an agreement with the bargaining unit. The law would also give the nonexempt employee an opportunity to elect compensatory time off in lieu of overtime. She felt the law would give local government the right to make a decision that is their right to make.

MIKE STEPHEN, Montana Association of Counties, said they support the bill as it would give additional flexibility to the county governments in regard to workweeks. He said their only criticism is in setting up budgets--hard to determine who is going to work overtime and to repay comp time if several people quit.

DAN MIZNER, Montana League of Cities and Towns, said they support the bill. He felt this clears up the language that said comp time must be taken within the week it was earned. He also liked that it applies to all towns regardless of size.

R. NADIEAN JENSEN, AFSCME, AFL-CIO, spoke in support of the bill.

AL THELAN, City of Billings, spoke in support of the bill. He said they are having some 10 hour, 4 day workweeks, and now each employee must sign a waiver and this law would make that unnecessary.

There were no opponents.

Questions were asked by the committee. Rep. Keedy questioned page 2, lines 1 through 4. This, he said, does not make a

provision for an agreement on comp time as well as overtime. He questioned if this was her intent. Rep. Spilker said she intended to open up the choice as much as possible. Rep. Keedy questioned the wording on page 1, line 18, page 2, line 14, and asked if Rep. Spilker would mind if it were changed. Rep. Spilker agreed some of the words used were confusing and if they could change it to make the intent clearer, fine.

#### HOUSE BILL 62

REPRESENTATIVE ROBERT DOZIER, District #61, chief sponsor of HB 62, said he was sponsoring the bill at the request of the Department of Social and Rehabilitation Services. He said this just adds the Vietnam conflict within the definition of the term "War or Declared National Emergency." He said this won't make the veterans eligible for any other benefits--they already have a state hiring preference but not legally. He said we should recognize the fact that we have 28,000 Vietnam veterans in Montana.

DAVID ARMSTRONG, JR., Veterans Affairs Division, SRS, spoke next in support. He said in his research he discovered that the Vietnam conflict was not spelled out--that the U.S. code does not clarify what constitutes a Vietnam veteran.

DAN ANTONIETTE, USDL - VES, State Director, said they support the bill.

TONY CUMMING, American Legion of Montana, said he was appearing also for Bob Durkee of the VFW. He said he apologized that this has gone so long without measures being taken to correct it.

There were no opponents so Chairman Ellerd opened the hearing on HB 62 to questions from the committee. Rep. Keedy questioned the need of the bill. Mr. Armstrong replied that the present language does not clarify the period of the conflict--1964 to 1975, and this is needed to clarify just what is a Vietnam veteran.

#### HOUSE BILL 75

REPRESENTATIVE HAL HARPER, District #30, the chief sponsor, said this bill changes the definition of total unemployment. He said this is to discourage violation of the unemployment laws by not penalizing him for the total amount of unemployment if he has the initiative to supplement his income with small jobs. This law should encourage him to file a report on these jobs.

DON JUDGE, Montana State AFL-CIO, spoke in support. He said this bill simply provides if you do some small jobs while

drawing unemployment your unemployment check will be reduced but not totally discontinued. He said this should encourage people to be legal.

CHAD SMITH, Unemployment Compensation Advisors, Inc., spoke in opposition with a suggested amendment. He said he didn't disagree with the basic idea but his concern is with the language of the bill which does not offer the safeguards intended. He said the secondary source of income could be almost as much as a primary source and so it is conceivable that an individual could obtain unemployment compensation and have an income of \$2,000 plus self employment. He handed in a suggested amendment, EXHIBIT 1, which he said would add the necessary safeguards but still provide for the problem.

Rep. Harper in closing asked for a comment from Greg Groepper, Department of Labor and Industry. Mr. Groepper said the intent of the department was to open up the legislation for those who do work and are penalized for a whole week if they work a couple of hours. He felt Mr. Smith's amendment would not harm the intent of the bill.

Questions were asked by the committee.

HOUSE BILL 76 was passed for the day at the request of the sponsor, Rep. Hal Harper.

#### HOUSE BILL 77

REPRESENTATIVE HAL HARPER, District #30, the chief sponsor, said this bill would eliminate the penalty for late unemployment reports. He said there was too much of a hassle to try to collect them.

There were no other proponents and no opponents. Rep. Harper closed. There were no questions from the committee.

#### HOUSE BILL 79

REPRESENTATIVE HAL HARPER, District #30, chief sponsor, said this bill is a little more complicated and substantive than the previously discussed bills he had sponsored today.

Rep. Harper said this deals with public works contracts. This is to help the department know how many contracts are out and when a contract is completed. The department has only 90 days after termination of a job to file an action to collect any penalty if the prevailing wage has not been paid. He said since 1932 there has been no requirement to list the prevailing wage in the bid but section 4 would make that mandatory. Section 2 makes it clear that it is to be paid even if not included in the contract, that the department is to be notified

when the job is completed. Section 5 says if requested a copy of the payroll will be sent to the department; Section 6 gives the department authority to check and Section 7 gives them rule making authority. A statement of intent covering this is EXHIBIT 2.

J. D. LYNCH, Montana State Building and Construction Trades Council, said they were in total support of the bill.

DON JUDGE, Montana State AFL-CIO, spoke in support. He said the five cases in court dealing with this problem are there because the law is not specific enough.

RANDY SIEMERS, Operating Engineers, said they were in total support of the bill.

DICK KANE, Labor Standards Division, said an amendment was needed on page 4, line 24. This would require the submission of weekly payroll to the contracting authority. This would be the State Purchasing Agency and he said they have about 15,000 contracts, many small like for business machines, and this reporting requirement would place a tremendous paper load on them.

LUTHER GLENN, State Purchasing, Department of Administration, handed in a suggested amendment, EXHIBIT 3, to clear up the problem mentioned by Mr. Kane.

There were no opponents and Chairman Ellerd opened the hearing to questions from the committee.

Rep. Seifert asked of Mr. Kane if these public works contractors did not have to file reports with the federal government and why the department could not go there for the information. Mr. Kane said the contracts they look at are not the same contracts as under federal law and are not subject to federal law. Rep. Seifert asked concerning the cost and Mr. Kane said it would cost less due to the court cases now. Even without court cases the cost would be minimal he felt.

CHAIRMAN Ellerd closed the hearings and called for a ten minute break, after which the committee would go into executive session.

#### EXECUTIVE SESSION

HB 62 - Rep. Seifert recommended do pass. Rep. Keedy suggested the bill be amended on page 1, line 22, by striking the words "including but not limited to those veterans serving because of the Vietnam conflict." He felt this language was not needed. Rep. Seifert moved the amendment and As Amended Do Pass. A voice vote was taken and the motion carried unanimously with those present.

HOUSE BILL 77 - Rep. Schultz moved Do Pass, seconded by Rep. Seifert. A voice vote was taken and the motion carried un-animously.

HOUSE BILL 79 - Rep. Harper, the sponsor, said due to some unanswered questions he would appreciate the bill being passed for the day.

HOUSE BILL 11 - Rep. Keedy moved Do Pass. He then moved the following amendments: Page 1, line 18: strike "workweek" and insert "workperiod" - motion on this amendment passed unanimously by those present; Page 1, line 19: strike "the" and insert "a" - motion on this amendment passed unanimously by those present; page 2, lines 2, 3 and 4: strike "paid overtime at a rate of not less than 1 1/2 times the hour rate at which he is employed" and insert "compensated for those hours at a rate of not less than 1 1/2 times the hourly rate at which he is employed, or in accordance with any compensating time off provisions of the agreement" - motion on this amendment passed unanimously with those present; page 3, line 1: strike "is" and insert "are" - motion on this amendment passed unanimously with those present.

Don Judge, upon request, expressed a fear that these amendments might be taking out needed safeguards for accumulated comp time hours, increasing them from 80 to 160. Rep. Keedy felt there was no conflict as section 1 deals with bargaining unit situations and section 2 covers the accumulation of comp time of individuals who are not members of a collective bargaining unit.

Chairman Ellerd said since there was a question and since the bill's sponsor was not present he would rather hold off a decision on the bill until the next meeting. Rep. Harper moved the bill be passed for the day. This motion passed unanimously with those present.

HOUSE BILL 75 - The sponsor, Rep. Harper, requested this bill be held for the day until the amendments suggested by Mr. Smith could be studied. Motion carried unanimously to do so.

Rep. Schultz moved the meeting adjourn. Meeting adjourned at 2:45 p.m.

Respectfully submitted,



ROBERT ELLERD, CHAIRMAN

Ex. 1

HOUSE BILL NO. 75

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Mr. Chairman: I move to amend House Bill No. 75 on page 1 in lines 21 through 23 by deleting all material starting with the word "if" on line 21 to the end of the sentence and substituting in lieu thereof the words "in any week that such individual earns less than 2 times his weekly benefit amount from wages and self-employment. All self-employment earnings must be reported for audit."

## Statement of Intent - LC 282

A statement of intent is required for this bill because it grants the Commissioner of Labor and Industry rulemaking authority regarding the preference for Montana labor in public works contracts. This bill intends that the commissioner adopt rules concerning areas such as the use of apprentices, methods of computing standard prevailing wage rates, and geographical areas subject to the rates. The commissioner shall also have the authority to adopt rules as may be needed to ensure that reporting and enforcement measures are complied with.

1-08-81

Insert Page 4 New Section 4  
line 22.

The provisions of  
New Section 3 & 4 and do  
not apply to State Purchases  
Statutes stated within MCH  
Title 13 Section 4.

Bulhu Allen  
444-2575



HOUSE LABOR & INDUSTRY COMMITTEE

Date 1-8-81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.