

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

January 27, 1981

The meeting of the Labor & Employment Relations Committee was called to order by Chairman Harold Nelson on January 27, 1981, in Room 404 of the State Capitol at 1:00 p.m.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL 132: Chairman Nelson called on Senator Keating, sponsor of SB 132, to explain the bill to the Committee. Senator Keating stated that SB 132 is an act to exempt agents for professional athletes from the provisions governing employment agencies. Senator Keating further stated that he did not feel it was necessary that the agents for professional athletes adhere to the provisions governing employment agencies.

PROPOSERS OF SENATE BILL 132: Mr. Jim Healow, representing Kurth Law Firm, submitted a letter from Mark D. Parker, outlining some of the problems created by applying the Montana Employment Agency Act to agents for professional athletes. This letter is attached to the minutes. Mr. Healow stated they are in support of SB 132.

There were no opponents to Senate Bill 132.

Senator Keating made closing remarks in support of Senate Bill 132.

QUESTIONS ON SENATE BILL 132: Senator Aklestad asked about the word "obtaining" on page 3, line 7. Staff Attorney, K. Orr, stated the language was alright--it was just the way it was being read.

Senator Norman asked about a definition of a professional athlete. Senator Keating stated the professional athlete was not put into the Act. He didn't feel there was any need for a definition.

Senator Hafferman asked who pays. Senator Keating stated that the only money the state receives would be from the license. The agent for the professional athlete would be exempt and would not require a license.

Chairman Nelson called the hearing on Senate Bill 132 closed.

CONSIDERATION OF SENATE BILL 191: Chairman Nelson called on Senator Roger Elliott, sponsor of SB 191, to explain the bill to the Committee. This bill is an act to eliminate the 100 percent penalty imposed on employers for failure to pay premiums for

workers' compensation coverage; to require payment of interest in lieu of the 100 percent penalty and to eliminate the payment of all benefits provision; amending sections 39-71-506, MCA.

Senator Elliott stated that he feels the 100 percent penalty is unjustified, and in most cases it is not the intent of the employer not to comply with the law, but rather it is a matter of not understanding the law.

There were no proponents of SB 191 present at the hearing.

OPPONENTS OF SENATE BILL 191: Mr. Norman Grosfield, representing himself, stated that he opposes SB 191. His printed testimony is attached.

Mr. Pat McKittrick, representing the Joint Council of Teamsters, No. 2, stated they are in opposition to SB 191. He stated the bill does not follow the intent of the Workmen's Compensation Act to cover injuries. He further questioned 9 percent of what in the bill.

Mr. David Hunter, representing the Department of Labor & Industry, stated they oppose SB 191. Mr. Hunter stated that an adequate penalty is necessary, but you need adequate provision in the law to encourage their compliance.

Mr. Jerry Driscoll, representing Laborer's Union Local 98, stated they are in opposition to SB 191. Mr. Driscoll's printed testimony is attached. Mr. Driscoll submitted a letter from Mr. James Murry, Executive Secretary for Montana State AFL-CIO. This letter is also attached to the minutes.

Mr. Randy Siemers, representing the Operating Engineers, stated they are in opposition to SB 191.

Mr. Mike Meloy, representing the Montana Trial Lawyers Association, stated they are in opposition to SB 191.

QUESTIONS ON SENATE BILL 191: Senator Ryan asked what effect this act would have on workers' compensation as is.

Mr. Laury Lewis, representing the Division of Workmen's Compensation, stated there would be a loss of about \$300,000 per year from the fund.

Senator Aklestad asked Senator Elliott to go over the penalty once more and Senator Elliott did this.

Senator Keating wondered why an employer would not pay premiums if he has employees in a high-risk job. Senator Elliott stated there might be a time delay in collection of the monies.

Senator Goodover asked how prevalent the problem is that Senator Elliott described. Mr. Laury Lewis stated that there is a problem, and in many instances the penalties are waived, but as long as it is funded through fines and penalties, there will be a problem.

There was general discussion about the funding of the Unemployment Insurance Fund.

Chairman Nelson asked Senator Elliott to make closing statements on SB 191. Senator Elliott stated that many small-business employers cannot afford the insurance premium.

Senator Nelson called the hearing on Senate Bill 191 closed.

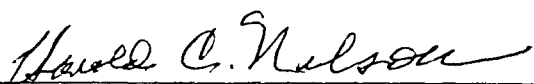
ACTION ON SENATE BILL 128: Senator Anderson moved that Senate Bill 128 Do Pass. Senator Goodover seconded the motion. On a Roll Call Vote, SENATE BILL 128 PASSED by a 5-1 vote. Senators Aklestad and Hafferman passed on voting. This Roll Call Vote is attached.

ACTION ON SENATE BILL 191: Senator Anderson made a motion that Senate Bill 191 Do Not Pass. Senator Anderson feels that SB 191 should not pass because: 1) The interest rate is too low, 2) The fund is in trouble, and 3) Every employer is on notice of workers' compensation requirements.

On a Roll Call Vote, the Committee voted unanimously that SENATE BILL 191 DO NOT PASS. This Roll Call Vote is attached.

ACTION ON SENATE BILL 132: Senator Anderson made a motion that Senate Bill 132 Do Pass. The Committee voted unanimously with the exception of Senator Goodover that SENATE BILL 132 DO PASS. Senator Goodover passed on the vote because he was not present at the time SB 132 was considered.

ADJOURN: There being no further business, the meeting adjourned at 2:25 p.m.



Senator Harold C. Nelson, Chairman

ROLL CALL

LABOR & EMPLOYMENT RELATIONS COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Jan. 27, 1981

NAME	PRESENT	ABSENT	EXCUSED
GARY C. AKLESTAD, VICE-CH.	✓		
MIKE ANDERSON	✓		
PAT M. GOODOVER	✓		
WILLIAM HAFFERMAN	✓		
THOMAS F. KEATING	✓		
BILL NORMAN	✓		
PATRICK L. RYAN	✓		
HAROLD C. NELSON, CHAIRMAN	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

..... January 27, 19 31

MR. PRESIDENT

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration SENATE Bill No. 128

Respectfully report as follows: That SENATE Bill No. 128

DO PASS

P.A.

STANDING COMMITTEE REPORT

January 27, 1981

MR. **PRESIDENT**

We, your committee on **LABOR & EMPLOYMENT RELATIONS**

having had under consideration **SENATE** Bill No. **132**

Respectfully report as follows: That **SENATE** Bill No. **132**

DO PASS

STANDING COMMITTEE REPORT

January 27, 1961

MR. PRESIDENT

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration SENATE Bill No. 132

Respectfully report as follows: That SENATE Bill No. 132

DO PASS

BQ

STANDING COMMITTEE REPORT

January 27, 1931

MR. PRESIDENT

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration SENATE Bill No. 191

Respectfully report as follows: That SENATE Bill No. 191

DO NOT PASS
DO PASS

G. A.

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date 1/27/81 Senate Bill No. 128 Time 2:17

NAME	YES	NO
GARY C. AKLESTAD, VICE-CHAIRMAN	<i>Pass</i>	
MIKE ANDERSON	✓	
PAT M. GOODOVER	✓	
WILLIAM HAFFERMAN	<i>Pass</i>	
THOMAS F. KEATING	✓	
BILL NORMAN	✓	
PATRICK L. RYAN		✓
HAROLD C. NELSON, CHAIRMAN	✓	

Marjorie Nichols
Secretary

Harold C. Nelson
Chairman

Motion: by Sen. Anderson that SB 128 Do Pass.
Passed by a 5-1 vote.

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

SENATE COMMITTEE LABOR & EMPLOYMENT RELATIONS

Date 1/27/81 Senate Bill No. 191 Time 2:20

NAME	YES	NO
GARY C. AKLESTAD, VICE-CHAIRMAN	✓	
MIKE ANDERSON	✓	
PAT M. GOODOVER	✓	
WILLIAM HAFFERMAN	✓	
THOMAS F. KEATING	✓	
BILL NORMAN	✓	
PATRICK L. RYAN	✓	
HAROLD C. NELSON, CHAIRMAN	✓	

Maryjane Nichols
Secretary

Harold C. Nelson
Chairman

Motion: by Sen. Anderson that SB 191 Do Not Pass.

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

NAME: Jim Uzalow DATE: 1/27/81

ADDRESS: 2470 E BROADWAY #10C HELEN

PHONE: 442-7367

REPRESENTING WHOM? Kurtz Law Firm

APPEARING ON WHICH PROPOSAL: SR 132

DO YOU: SUPPORT? / AMEND? OPPOSE?

COMMENTS: representation by letter of 2/7/81

KURTH LAW FIRM, P.C.

Suite 350
Securities Building
P. O. Box 2137
Billings, Montana 59103

Sidney P. Kurth
Granville M. Alley III^o
Mark D. Parker

Telephone (406) 248-1111
Telecopier (406) 245-7757

MEMORANDUM

January 22, 1981

TO: MEMBERS OF THE MONTANA
SENATE LABOR COMMITTEE

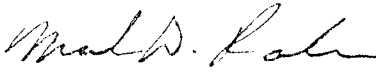
FROM: MARK D. PARKER

This is a brief outline of the problems created by applying the Montana Employment Agency Act to agents for professional athletes.

1. Most athletic agents are from out of state and could not comply with the provisions of the act quickly enough to negotiate for their client.
2. Presently, Montana employment agencies lack the sophistication to negotiate high salary/complex contracts for professional athletes.
3. The maximum fee allocatable is 75% of the first month's salary. Such a sum may be only 1% of a negotiated contract.
4. The commissioner of the department of labor and industry must approve player/agent contracts. 39-5-303. This is unduly burdensome and surely not within the Act's intent.

The act has several other technicalities which are inappropriate in the professional athletic bargaining process.

KURTH LAW FIRM, P.C.

By: 
MDP

MDP:ljm

NAME: Norman Grosfield DATE: 1/27/81

ADDRESS: P.O. Box 512

PHONE: 443-7250

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: SB 151

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

COMMENTS: Will be provided Committee

UTICK & GROSFIELD

ATTORNEYS AT LAW
36 South Last Chance Mall
Post Office Box 512
Helena, Montana 59624
Telephone (406) 443-7250

ANDREW J. UTICK

January 27, 1981

NORMAN H. GROSFIELD

Mr. Harold C. Nelson, Chairman
Senate Labor and Employment
Relations Committee
Capitol Station
Helena, Montana 59620

Re: Senate Bill 191

Dear Mr. Chairman:

I wish to state my position concerning Senate Bill 191.

My name is Norman H. Grosfield, and I appear here today as an interested citizen concerning the above-referenced bill. It is my position that the proposal is ill-conceived, and contrary to the interests of the employers and workers in this state.

There is a long history concerning the creation of the Uninsured Employers' Fund under the Workers' Compensation Act. Initial efforts to create such a fund started in 1974. The Fund was finally established in the 1977 legislative session. It was created after long deliberations by the Workers' Compensation Advisory Council, a council made up of several interests concerning workers' compensation legislation. These interests included self-insured employers, private insurance carriers, employers, and organized labor. After thoroughly reviewing all alternatives, the suggested approach as now exists concerning penalties assessed on uninsured employers was established. I was involved in the creation and establishment of the Uninsured Employers Fund when I was Administrator of the Division of Workers' Compensation. I drafted the legislation now existing in the current law. However, my interest extends beyond my involvement with creating the law, and I believe that the current law is good legislation and should be kept as it now stands.

The current law, assessing employers double the premium that such employers would have paid if they had been properly covered with an insurance carrier, and providing a subrogation interest by the Uninsured Employers' Fund against uninsured employers, is a valid approach to the perplexing problem. Workers' compensation coverage is mandatory for nearly all employments in the state. Therefore, an adequate remedy is required in order to establish coverage for all employers and, in order to pay benefits to employees who, unfortunately, are injured while working for an uninsured employer. It is submitted that the approach taken in the current law, that of doubling the premium amount, is a proper remedy.

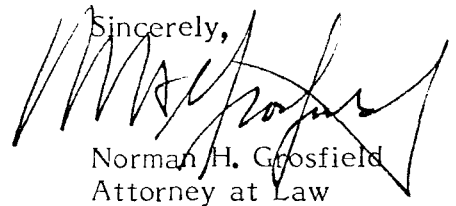
The proposed legislation would encourage employers not to enroll under the Workers' Compensation Act. It would be to an employer's financial advantage not to carry workers' compensation coverage, and, if caught, would merely pay past-due premiums and a minimal amount in interest. Such an approach is contrary to the spirit of the Workers' Compensation Act in requiring that all employees be properly covered through workers' compensation insurance.

Mr. Harold C. Nelson, Chairman
Senate Labor and Employment
Relations Committee
January 27, 1981
Page 2

It is submitted that proposed Senate Bill 191 is merely an attempt to completely abrogate the Uninsured Employers' Fund, which fund is in dire financial straits at the present time. To further weaken its funding source, and to further weaken the mandatory coverage requirement, is contrary to the spirit and intent of Montana's Workers' Compensation Act, which Act is, in many ways, a model law.

Finally, it must be pointed out that Senate Bill 191 hurts only those employers who properly cover their employees under the Workers' Compensation Act. It places such responsible employers in a financially disadvantageous position in relation to employers who improperly refuse to cover their employees. Thus, such legislation should certainly not find support from the responsible employer community.

It is urged that the Senate Labor and Employment Relations Committee not allow such ill-conceived legislation to become a part of our current, adequate, and enlightened Workers' Compensation Act.

Sincerely,

Norman H. Grosfield
Attorney at Law

NHG:ale

pc: Members of the Senate
Labor and Employment
Relations Committee

NAME: Mr. McKittrick DATE: 1/27/81

ADDRESS: P.O. Box 1184

PHONE: 727-4041

REPRESENTING WHOM? Joint Council, Transist n 2

APPEARING ON WHICH PROPOSAL: SB 191

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

COMMENTS: _____

NAME:

David Hunter

DATE:

1/27/81

ADDRESS:

Dept of Labor + Industry

PHONE:

449 - 2621

REPRESENTING WHOM?

Dept of Labor + Industry

APPEARING ON WHICH PROPOSAL:

SB 191

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

✓

COMMENTS:

NAME: John, Onecott DATE: 1-27-81

ADDRESS: 4344 Stone St Bellings

PHONE: 259-1653

REPRESENTING WHOM? *Laboris Union Social 78*

APPEARING ON WHICH PROPOSAL: 50 191

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

LABORERS INTERNATIONAL UNION OF NORTH AMERICA

Local Union No. 98



Bill McColley
Secretary-Treasurer
and Business Manager
345 Calhoun Lane
Telephone 259-4471

BILLINGS, MONTANA 59101,

TESTIMONY OF JERRY DRISCOLL ON SENATE BILL 191
JANUARY 27, 1981

Mr. Chairman, Members of the Senate Labor Committee, my name is Jerry Driscoll and I'm appearing here today in behalf of Laborers Local 98 in Billings, Montana. I am speaking today in opposition to Senate Bill 191.

The intent of this bill seems to be to do away with mandatory workers' compensation coverage. Although the title of the bill does not say it directly, that is what the probable outcome of passing SB 191 would be.

This bill would reduce the penalty against employers who do not provide workers' compensation insurance coverage. In fact, it would reduce the penalty so far that such coverage would become optional.

Under current law, there is an Uninsured Employers Fund so that injured employees of uninsured employers are protected with the same benefits as employees who work for responsible employers. That fund was provided entirely by fines and penalties assessed against uninsured employers. The penalty provides that the uninsured employer must pay double the amount of the premium which should have been paid for such coverage. The uninsured employer must also pay the benefits for the injured employee, up to a maximum of \$30,000. These provisions apply only to the uninsured employers.

Under this bill, an employer might deliberately choose not to be insured. If an employee has an accident, the employer could then pay the back premiums, plus only 9% interest. With the current trend of the money markets paying up to 17% interest on invested monies, it would behoove an unscrupulous employer to avoid paying his regular premiums, thereby drawing a greater return on his invested money.

(continued)

Such a policy would also lead to many good employers subsidizing the costs of benefits paid to injured workers of uninsured employers.

Another possible outcome of relaxing the penalties assessed against uninsured employers is a growth in such employer practices. If it is profitable not to pay premiums on time, then why do it?

A drastic rise in uninsured employers could lead to a financial crisis in the entire workers' comp fund. Premiums for insured employers would certainly go up. Coverage of thousands of workers would be in doubt, since there would be no Uninsured Employers Fund to speak of.

Workers' compensation exists to protect the working people of Montana against expenses resulting from injuries on the job. Why should workers be denied coverage and honest employers pay higher rates so that uninsured employers can make money?

As most employers remember, workers' compensation insurance was created not only to protect workers, but also to protect employers from unlimited liability lawsuits. I urge you to protect the employees, the good employers, and the soundness of this program by defeating Senate Bill 191.

Thank you.



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

January 27, 1981

The Honorable Harold Nelson, Chairman
Senate Labor Committee
State Capitol
Helena, Montana 59620

Dear Senator Nelson:

The Montana State AFL-CIO opposes Senate Bill 191. I am sorry that I cannot give this testimony in person, but I am in bed with the flu and Don Judge is required to attend a hearing in another committee.

The state federation opposes this bill because it has the potential of destroying workers' compensation.

This bill would remove the penalties now assessed against uninsured employers. The effect will certainly be a rapid increase in uninsured employers. Not only could that severely harm working people who are injured on the job by putting their benefits in doubt, but it would also penalize the good insured employers by greatly increasing their premiums.

If the Uninsured Employers Fund receives no fines based on missed premiums and the Workers' Compensation Division cannot bill the employer for benefits paid out, then the Fund will disappear after a very few claims. The 9% penalty provided in this bill is no penalty at all, as current interest rates on investments exceed this by as much as double that amount.

With no Uninsured Employers Fund, injured employees will have no recourse but the courts. Lawsuits will greatly increase. The workers' compensation program was created both to insure working people and to limit the liability of employers. This bill will harm both injured workers and honest employers, and we ask you to give it a "do not pass" recommendation.

Sincerely,

James W. Murry, Executive Secretary
Montana State AFL-CIO

cc: Senate Labor Committee Members

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Mike McCoy DATE: 1/27/81

1/27/81

ADDRESS: Scenic 806 Arena

PHONE: 442 9430

REPRESENTING WHOM? MTLA

APPEARING ON WHICH PROPOSAL: SB 191

SUPPORT?

AMEND?

OPPOSE? ☒

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY