

HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE MINUTES
January 20, 1983

The House Labor and Employment Relations Committee convened on January 20, 1983, at 12:30 p.m., in Room 224K of the State Capitol, with Chairman Williams presiding and all members present. Chairman Williams opened the meeting to a hearing on HB 201.

HOUSE BILL 201

REPRESENTATIVE KELLY ADDY, District 62, chief sponsor, said this bill was at the request of the Personnel and Labor Relations Study Commission. He said this changes the time when the final order concerning an unfair labor complaint must be issued from 5 months after the complaint is submitted to the hearing officer to 5 months after final briefs are submitted to the hearing officer. The study commission felt this practice adopted by the Board of Personnel Appeals is the correct one and should be codified.

BOB JENSEN, Administrator of the Board of Personnel Appeals, said the Board and the Department support the measure.

JOYCE BROWN, Personnel and Labor Relations Study Commission, said they strongly support the bill. A copy of her testimony is Exhibit 1 of the minutes.

SUE ROMNEY, Montana School Board Association, said they support the bill.

REPRESENTATIVE ADDY closed.

There were no questions.

Chairman Williams closed the hearing on HB 201 and opened the meeting to a hearing on HB 225.

HOUSE BILL 225

REPRESENTATIVE TOM ASAY, District 50, chief sponsor, said the purpose of the bill is to try to rectify the difficulty that exists in the Department of Labor as far as hiring and keeping mine inspectors. He said restrictive language in the law requires the person to hold a mine foreman's certificate and this qualifies him to make more money than he can at the state level. He said this causes a lot of confusion as, even if they can attract a person to the job, they are not able to have the person on the job long enough to understand it. The purpose of the bill is to reduce some of the specific language and make it possible to hire people that will stay on the job. The main thrust is that he won't need a foreman's certificate. Rep. Acey did question if perhaps more language was struck than need be. He said the Coal Council had requested that the word "power" on line 15 be removed.

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GARY BLEWETT, Workers Comp, spoke in favor of the bill. He said the department has had trouble hiring mine inspectors, and the primary problem being the qualifications are so high that potential candidates can get hired elsewhere for a much higher salary. If they do fill the position, the person stays only a short time. He said they have a choice of raising the pay so high that it has no comparison with other inspectors in the Division, or lowering the criteria to what seemed reasonable and meet the requirements with proper training. He said they have had two people since 1981 and neither stayed long, and as a result there has been only two weeks of coal mine inspection since January, 1981. He said the position is filled now but he didn't know for how long.

CRAIG NILE was asked by Rep. Acey to comment. Mr. Nile said he was a coal miner. He said their mine has had only one inspection and should have had three in that length of time. He said the inspector must be qualified - would need to have worked in the coal mines so he would understand the problems and have been around the equipment. He felt five years was a reasonable requirement. Mr. Niles questioned if perhaps the job classification could be changed so that some of the other duties, other than inspecting, could be given to another person that doesn't need as many qualifications.

JIM MURRY, Executive Secretary, AFL-CIO, spoke in support of the bill and a copy of his testimony is Exhibit 2 of the minutes.

REP. JERRY DRISCOLL, District 69, said he had proposed amendments and a copy of these is Exhibit 3 of the minutes. He passed copies to the committee members.

JIM MAYES, Local 400 IUOE, spoke next as an opponent but he said they would go along with the bill as amended by Rep. Driscoll. A copy of his testimony is Exhibit 4 and part of the minutes.

WYATT FROST, Cement Workers 239, spoke next as an opponent and a copy of his testimony is Exhibit 5 of the minutes.

REPRESENTATIVE ACEY in closing said he would like the word "power" removed. He said the point that all seemed to agree on was the removal of the mine foreman certificate qualification.

During questions from the committee, Rep. Ellerd asked how many inspectors would this affect. The answer was one. It was mentioned the going rate for a person with the needed qualifications in the private sector was \$40,000 a year. It was also mentioned that the Federal Bureau of Mines was backing away from the inspections in favor of the state doing them. However, some money might be available.

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Mr. Blewett felt the conflict of interest part was not needed as there is a whole set of other laws that cover employees while they are in state government and one of these laws covers conflict of interest.

Chairman Williams closed the hearing on HB 225 and opened the meeting to a hearing on HB 226.

HOUSE BILL 226

REPRESENTATIVE TOM ASAY, District 50, chief sponsor, said this bill addressed the same difficulty with boiler inspectors. He requested the removal of the word "power."

GARY BLEWETT, Workers Comp, spoke in favor of the bill. He said the circumstances are slightly different for the boiler inspector situation. He said very high criteria has been established in law for them. However, he said they have had two boiler inspectors for quite some time and there is no vacancy and as a result no turnover. The reason for requesting the bill is in anticipation of a replacement needed somewhere down the road.

JIM MURRY, Executive Secretary, Montana AFL-CIO, spoke in support, and a copy of his testimony is Exhibit 6.

REPRESENTATIVE JERRY DRISCOLL passed out copies of suggested amendments to the committee members. A copy is Exhibit 7 of the minutes.

JIM MAYES, Local 400 IUOE, spoke next as an opponent, and a copy of his testimony is Exhibit 8 of the minutes.

LEWIS (PITCH) RAFFERTY, representing self, spoke next in opposition. He mentioned it could be dangerous for all to have someone who didn't know what he was doing as an inspector. A copy of his testimony is Exhibit 9 of the minutes.

REPRESENTATIVE ACEY in closing said it is very important that if we make a change it be a beneficial one. He said he doesn't have a great deal of knowledge in this area.

During questions Rep. Bachini asked Mr. Rafferty if he felt it would take 10 years of experience to become a qualified boiler inspector. Mr. Rafferty felt a good man could be qualified in 5 years with a first class license.

Rep. Jones asked Mr. Blewett the object of the word "powers." Mr. Blewett said "powers" means the inspector can carry out the powers of the division. If the word is removed, inspectors can't do any more than the specific law allows.

Chairman Williams closed the hearing on HB 226 and opened the meeting to an executive session.

EXECUTIVE SESSION

HOUSE BILL 201 Rep. Addy moved DO PASS. The motion carried unanimously.

HOUSE BILL 225 Rep. Driscoll moved the amendments he had presented with the addition of the amendment to remove the word "power" in the title and on line 15. Rep. Harper requested the record show that no new enforcement activity can creep in; no current activity to be curtailed by the removal.

Rep. Driscoll moved to strike "a resident of the state." Rep. Ellerd questioned the qualification that the person must be a citizen of the United States as if there were a very capable person available why not be able to employ him. Rep. Driscoll said an alien is not to be hired if a qualified United States citizen is around.

Rep. Harper said a substantial part of the amendments are a portion of the code of ethics for state officials. Mr. Wright, the researcher, said the code of ethics has been challenged and is not enforceable at this time. He said there is a bill to amend to make it enforceable.

After discussion Rep. Driscoll withdrew his amendment to strike "a resident of the state." A voice vote was taken on his first amendment and it carried unanimously with all members present.

Rep. Seifert questioned who was going to determine what adequate means - the division or the union. Mr. Blewett responded to a question but saying the division would do an evaluation on what the law tells us to do; the number of employees will be determined primarily by the Appropriations Committee.

Rep. Driscoll moved DO PASS AS AMENDED and this motion carried unanimously.

HOUSE BILL 226 Rep. Driscoll moved the amendments. Rep. Pavlovitch asked if the inspectors would have to be residents of the state. Mr. Blewett said there was no requirement. Rep. Pavlovitch said it should be in the bill as he was aware of a job for which there were many qualified state people and the person who got it was from out of state. Rep. Hannah said he agreed with Rep. Pavlovitch that Montana people should be hired but he was not sure it would solve the problem. Rep. Farris asked how long a person has to be here before he is considered a resident. Rep. Driscoll pointed out that the amendment says a person cannot have the job unless he has a first class Montana license.

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Rep. Brown mentioned the amendments would need to include striking the word "repealing" on line 9 and the word "power" in the title and on line 16. Rep. Harper asked again to have included in the record that no current activity be curtailed.

The motion to adopt the amendments carried unanimously. Rep. Driscoll moved the bill AND AS AMENDED DO PASS. The motion carried unanimously.

HOUSE BILL 163 Rep. Hannah moved the amendments which are Exhibit 10 of the minutes. Rep. Dozier moved DO NOT PASS. Rep. Driscoll said there has never been a case where the union has refused a mediator. He felt this would just serve to get the unions into court and break the unions. He said management wants a handle to get one up on the unions. As it is neither side is one up. The question was called on the motion to amend. Voting aye were Reps. Hannah, Addy, Ellerd, Smith, Jones and Seifert. The motion failed.

Rep. Dozier said he would like to say something about the Collective Bargaining Act. He said a lot of work went into this Act. He said the final draft was one of the finest public employee collective bargaining acts for fairness and allowing people to express themselves. He said for that reason he hates to see it tampered with and this bill is substantive tampering.

Rep. Addy suggested striking section 3 in its entirety. Rep. Harper asked the division people what value the bill would have then. Mr. Taylor said you would be taking out the notice procedure and the requirement remaining is that either party would have to enter into mediation before concerted action. The question then was would it improve and clarify the Act. Mr. Taylor responded it would improve the possibility for both parties to reach an agreement judging from evidence presented to the Study Commission.

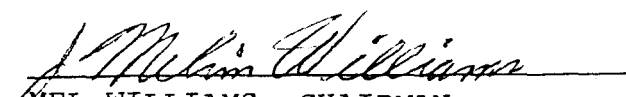
Rep. Ellerd moved a substitute motion of DO PASS.

Rep. Harper asked permission to ask Mr. Judge to respond to this question. Mr. Judge said they have the objection that you are turning the bargaining over to a mediator. He said there is no definition to the words on page 1, lines 19-21. He said somebody else is making the decision on a public bargaining.

A roll call vote was taken and the motion failed with 14 voting no and 3 yes (Ellerd, Seifert and Thoft). It was moved to reverse the vote so the bill received a DO NOT PASS from the committee.

Meeting adjourned at 2:15 p.m.

Respectfully submitted,


MEL WILLIAMS, CHAIRMAN

Emelia A. Satre, Sec.

WITNESS STATEMENT

Name Joyce Brown Committee On Labr + Employment
Address ~~1234~~ Mitchel Building Date 1-20-82
Representing Personnel + Labr Relations Support ✓
Study Commission Oppose _____
Bill No. HB 201 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

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4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Testimony of Joyce Brown, Project Director,
Personnel & Labor Relations Study Commission
in support of House Bill 201 before the Labor
and Employment Relations Committee, January
20, 1983.

Mr. Chairman, members of the Committee, HB201 is the third Personnel and Labor Relations Study Commission bill to appear before this committee.

Unlike HB163 which was opposed by organized labor both before the Study Commission and this Committee, HB201 was unanimously supported by all members of the Study Commission and all affected parties. It is also supported by the Governor.

HB201 serves to clarify disputed language in the Collective Bargaining for Public Employees Act which establishes a time requirement for a Board of Personnel Appeals ruling on an unfair labor practice charge in a manner consistent with the Board's own interpretation.

Current language indicates that "the Board shall issue a final order within 5 months after a complaint is submitted to the hearings officer". While the Board of Personnel Appeals has interpreted this language to mean 5 months after final briefs are submitted to the hearings officer, some Board users argue that it could just as well mean 5 months after a case has been assigned to a hearings office or 5 months after the hearing.

Typically, briefs and sometimes reply briefs are submitted by both parties to an unfair labor practice proceeding following the hearing. Since the time taken to prepare these briefs can be substantial, the Study Commission felt that requiring the Board to reach a decision five months after their submission was a more realistic requirement than other possible interpretations of the statutory language.

Since the clarification will eliminate disputes and possible litigation over the time requirements, the Personnel and Labor Relations Study Commission encourages its adoption.

WITNESS STATEMENT

Name Sue Pomney Committee On Labor
Address Helena Date 1/20/82
Representing MT School Bds Assn Support X
Bill No. HB 201 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

COMMITTEE

DATE 1/10/83

[illegible]

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



Exhibit 2

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY ON HOUSE BILL 225, BEFORE THE COMMITTEE ON
LABOR AND INDUSTRY -- JANUARY 20, 1983

The Montana State AFL-CIO supports HB225, but we feel the proposal should be amended. At the outset I want to make clear that the Montana State AFL-CIO appreciates the position the Department of Labor and Industry is in as they seek qualified coal mine inspectors.

WHAT THE BILL WOULD DO:

Qualifications required for coal mine inspectors are currently set by law. This bill removes those qualifications from the law and gives the Department of Labor and Industry the authority to decide what these qualifications will be.

WHAT THE LAW REQUIRES NOW:

50-73-401 (2). A person is not eligible to be a state coal mine inspector unless he is a citizen of the United States, a resident of this state, has been actually employed in coal mining 5 years before his appointment, and hold a mine foreman certificate and a mine inspector's certificate from this state.

(3) A state coal mine inspector may not act as agent for a corporation, superintendent, or amanger of a mine and shall in no manner be in the employ of mining companies, nor shall he be interested in any way in coal mining operations, either as owner, lessee, or otherwise.

WHY THE DEPARTMENT REQUESTS THE REMOVAL OF THIS LANGUAGE FROM THE LAW:

The Department of Labor and Industry states that it is difficult to find an individual with these qualifications at the salary the state is willing to pay, which is \$17,475, for a grade 13, step 1. A coal mine foreman with that kind of experience is making a great deal more money than \$17,475. The current coal mine inspector has been on the job for one month. The inspector before him remained for only 1 month, and the one before him for 3 months. The last time the position was open only 3 qualified individuals applied, and the time before that only 2 applied. In both cases, it took six months to find a qualified individual.

WHY THE MONTANA STATE AFL-CIO FEELS THAT HOUSE BILL 225 SHOULD BE AMENDED:

--Coal mining is an extremely dangerous occupation. Coal mine

inspection must be preformed by an inspector who has the practical background and technical knowledge to ensure the health and safety of those working in coal mines. The current law recognized that safe and thorough inspections can only be done by someone with actual experience in the field.

--We also firmly believe that removing the language regarding conflicts of interest for a coal mine inspector is very dangerous. A coal mine inspector whose loyalties or interests were with the company could never be trusted to perform adequate inspections.

--Having the qualifications and the prohibitions of conflicts of interest set by law means that every administrations must abide by them. This protects workers from an administration which might reduce the qualifications so much that a totally unqualified or unscrupulous inspector could make coal mine inspections a sham, leaving workers without the protections which they deserve.

WHAT CAN BE DONE:

Obviously our first preference would be that the Department of Labor and Industry pay a salary high enough to attract and retain coal mine inspectors who could meet the current standards set by law.

However, since the Department is unwilling to raise the salary, we would be willing to support an amendment to the current law which would remove the requirement that a coal mine inspector hold a mine foreman's certificate. We do not support removing the number of years of experience nor the provision against conflicts of interest.

SUGGESTED AMENDMENTS TO HB 225

Page 1, line 16.

Following: "{2}"

Insert: "(2) A person is not eligible to be a state coal mine inspector unless he is a citizen of the United States, a resident of this state, and has been actually employed in coal mining 5 years before his appointment.

(3) A state coal mine inspector may not act as agent for a corporation, superintendent, or manager of a mine and shall in no manner be in the employ of mining companies, nor shall he be interested in any way in coal mining operations, either as owner, lessee, or otherwise."

WITNESS STATEMENT

Name JIM MAYES Committee On LABOR
Address 2737 AIRPORT Rd Date 1/20/83
Representing LOCAL 400 IUOE Support _____
Bill No. 225 And 224 Oppose YES
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Ex. 4

International Union of Operating Engineers

LOCAL 400

Affiliated with AFL-CIO

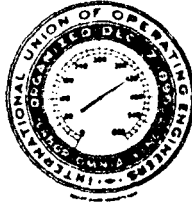
Montana

JOHN SLATTERY
President

J. F. "DAVE" JOHNSTON
Vice President

LOUIS LAYMAN
Treasurer

RALPH REID
Rec. Corres. Secretary



BILL BURLINGAME
Business Manager &
Financial Secretary

HEADQUARTERS
2717 Airport Road
Helena, Montana 59601
Telephone: (406) 442-9397

TESTIMONY OF JIM MAYES BEFORE THE HOUSE LABOR AND INDUSTRY COMMITTEE, JANUARY 20, 1983, ON HOUSE BILL 225

I am Jim Mayes, representing Operating Engineers, Local #400. I am here today to speak in opposition to House Bill 225. This bill gives certain authority to the Division of Workers' Compensation of the Department of Labor and Industry for provisions currently set by law. We believe this could have a harmful effect on workers' safety and health.

House Bill 225 repeals the statutory requirements for coal mine inspectors, and allows the Division of Workers' Compensation to decide what their powers and duties would be. Current law requires that "A person is not eligible to be a state coal mine inspector unless he is a citizen of the United States, a resident of this state, has been actually employed in coal mining five years before his appointment, and holds a mine foreman's and a mine inspector's certificate from this state."

We understand that the Division has had a problem in finding a coal mine foreman who would be willing to work as a coal mine inspector. This is because wages for a foreman far exceed what the state is willing to pay. We would agree to dropping the provision that a coal mine inspector must be a foreman, but we believe the other requirements are essential for effective coal mine inspection. Coal mining is the country's most dangerous industrial occupation. The first-hand, on the job experience of working for five years in a coal mine is critical to ensuring the health and safety of our state's coal miners. There is just no substitute for that kind of expertise.

We are also concerned that the bill would repeal the section of the law that states: "A state coal mine inspector may not act as a agent for a corporation, superintendent, or manager of a mine and shall in no manner be in the employ of mining companies, nor shall he be interested in any way in coal mining operations". Eliminating that section opens the door for all kinds of potential abuse, in our opinion. A coal mine inspector who was in the company's pocket could not be trusted to do the job right. That seems a little like putting the fox in charge of the chicken coop.

I would like to emphasize that Operating Engineers, Local #400 believes that the current administration and the current division of workers compensation is concerned about workers' health and safety. We believe the officials

JIM MAYES

HOUSE BILL 225

January 20, 1983

now in charge would make every effort to provide for well-qualified and competent coal mine inspectors. However, administrations and administrators come and go. We are concerned that the future administrations might not share this concern for protecting workers. When coal mine inspector qualifications are set by law, the bias of a particular administration could not circumvent them. This is a good law. It has worked well for the people of Montana. For the protection of Montana workers, please vote against House Bill 225.

Thank you.

WITNESS STATEMENT

Name Weyth Frank Committee On _____
Address P.O. 804 Three Forks Date 1-20-83
Representing Cement Workers 239 Support _____
Bill No. ^{HB} 225-226 Oppose yes
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

EX. 5



UNITED CEMENT, LIME AND GYPSUM WORKERS
LOCAL UNION NO. 239 AFL-CIO
THREE FORKS, MONTANA

Wyatt Frost, Financial Secretary

NAME OF WRITER

P.O. Box 804

ADDRESS

Three Forks, Montana 59752

CITY, STATE AND ZIP

TESTIMONY OF WYATT FROST ON HOUSE BILLS 225 AND 226, BEFORE THE HOUSE LABOR AND
INDUSTRY COMMITTEE, JANUARY 20, 1983

I am Wyatt Frost, an unemployed cement worker from Three Forks, representing the United Cement, Lime, Gypsum and Allied Workers Local 239, Three Forks. I am chairman of our safety committee. This is the first year I have had a chance to come to the legislature and testify. It's kind of fun, but I'd rather be working again.

In the Ideal Cement and the Cyprus Minerals Talc plants, safety and health is a big concern for us. We have a number of dangerous working conditions. So anytime there is a bill concerning safety, I am concerned, whether it affects my job directly or not.

House Bills 225 and 226 are both important bills for safety in coal mines and in every building that has a boiler. That includes the Cyprus Minerals Company and Ideal Cement, every major industrial plant in the state, and even schools. The safety of the general public clear down to school children is at stake, as well as the people who actually work on the boilers.

I can see how the current standards are perhaps a little too stringent to get good inspectors when the state pays so little. But it seems to me the answer is to amend those standards so the best people can be obtained, while not doing away with standards altogether. When it comes to the safety of people like our members, who work near boilers and mines, and of the general public, we need to have high standards for inspectors.

I ask you to amend the present requirements, but don't do away with them. We must have inspectors with experience in the industries and equipment they are inspecting.

Thank you.

COMMITTEE

DATE 1/20/83

SPONSOR Rep. ASAY

102



Exhibit 6

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY ON HOUSE BILL 226, BEFORE THE COMMITTEE ON
LABOR AND INDUSTRY -- JANUARY 20, 1983

The Montana State AFL-CIO supports House Bill 226, but we feel this
measure should be amended.

WHAT THE BILL WOULD DO:

Qualifications for boiler inspectors are currently set by law. This bill
would remove those provisions from the law, and allow the Division of
Workers' Compensation of the Department of Labor and Industry to set those
qualifications.

WHAT THE LAW REQUIRES NOW:

50-74-201. No person is eligible to hold the office of inspector of
boilers and steam engines who has not had at least 10 years actual exper-
ience in the operations of steam engines, steam boilers and steam machinery
and who has not held for at least 3 years immediately preceding his
appointment a first-class stationary engineer's license of the state of
Montana or who is directly or indirectly interested in the manufacture
or sale of boilers or steam machinery or any patented article required to
be sold relating thereto.

WHY THE DEPARTMENT OF LABOR AND INDUSTRY HAS REQUESTED THE REMOVAL OF THIS
LANGUAGE FROM THE LAW:

The Department is having difficulty attracting and retaining qualified
boiler inspectors, because the salary is set at grade 13 which is \$17,475
per year. An individual with the current legal qualifications can make a
good deal more than that. There are currently 3 boiler inspectors for the
state and an additional crane and boiler inspector. When a position is open,
usually only 1 or 2 people apply for it.

WHY THE MONTANA STATE AFL-CIO FEELS THAT HB 226 SHOULD BE AMENDED:

--The safety and well-being of workers and of the general public
depends on boilers which are in first-class working condition. To ensure
that safety, it is absolutely essential that a boiler inspector have in-depth

knowledge and practical experience with boilers. Inspection by an unqualified inspector presents a very real danger to workers, school children, anyone living in an apartment building or staying at a hotel, or being in any building which contains a boiler.

--The current law has sound provisions forbidding any conflict of interest on the part of a boiler inspector. That is an additional safeguard to protect workers and the public from an unscrupulous inspector who might have some kind of personal interest in the sale or manufacture of boilers or related machinery, and thus would not be objective when making inspections.

--Because the current qualifications and prohibitions are required by law, there is no chance that some future administration can change them. Workers and the public can trust those inspectors whose qualifications are statutory and not set by the whim or bias of some future administration.

WHAT CAN BE DONE NOW:

We would like to see the salary for this position set high enough so that it would be easy to attract and retain qualified boiler inspectors. If the state is not willing to do that, we would support a slight reduction in the number of years of experience, from 10 years to 5 years, and we also feel the inspector should have a 1st class stationary engineers license.

Ex. 7

SUGGESTED AMENDMENTS TO HB 226

1. Page 1, line 18 and 19.

Strike: these lines in their entirety.

Insert: "Section 2. Section 50-74-203, MCA, is amended to read:

'50-74-203. Qualifications of boiler inspectors. No person is eligible to hold the office of inspector of boilers and steam engines who has not had at least 10 5 years of actual experience in the operation of steam engines, steam boilers, and steam machinery and who has not held for at least 3 1 year immediately preceding his appointment a first-class stationary engineer's license of the state of Montana or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery or any patented article required to be sold relating thereto.'"

WITNESS STATEMENT

Name Jim Mayes Committee On Labor
Address 2737 Airport Rd Date 1/20/83
Representing Local 400 IUOE Support _____
Bill No. 224 Oppose yes
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

International Union of Operating Engineers

LOCAL 400

Affiliated with AFL-CIO

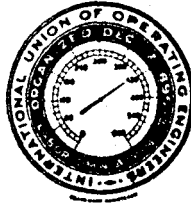
Montana

JOHN SLATTERY
President

D. F. "DAVE" JOHNSTON
Vice President

LOUIS LAYMAN
Treasurer

RALPH REID
Rec. Corres. Secretary



BILL BURLINGAME
Business Manager &
Financial Secretary

HEADQUARTERS
2737 Airport Road
Helena, Montana 59601
Telephone: (406) 442-9597

TESTIMONY OF JIM MAYES BEFORE THE HOUSE LABOR AND INDUSTRY COMMITTEE, JANUARY 20, 1983, ON HOUSE BILL 226.

I am Jim Mayes, representing Operating Engineers, Local #400. Our local represents many individuals working on boilers, from low-pressure operations to those requiring a first class operating permit. I am here to testify against House Bill 226. This bill removes the current statutory requirements for boiler inspectors and delegates authority to the Division of Workers' Compensation instead.

Current law provides that a boiler inspector have at least 10 years experience and hold a first class stationary engineer's license for at least three years immediately preceding appointment. Technical expertise and practical experience are essential for this position to ensure the safety of workers and the public.

This bill also removes language that prohibits anyone who is directly or indirectly interested in the manufacture or sale of boilers or related machinery from holding this position. That provision is also a protection for the safety of the people of Montana. No one with a conflict of interest should be inspecting boilers.

Even though the current administration would make every effort to hire competent boiler inspectors, that might not be the case with future administrations. Having these qualifications remain as law protects future Montanans, and public property such as schools.

We are told that because of the salary, the state is willing to pay, it is difficult to attract and retain an individual with 10 years experience. We would be willing to compromise by reducing the number of years experience to 6 instead of 10. But we believe the other provisions of this law must remain on the books.

Please retain the current law and vote against House Bill 226.

Thank you.

WITNESS STATEMENT

Name (Pitch) Lewis Rafferty Committee On _____
Address Box 574 Three Forks Date 1-20-83
Representing self Support _____
Bill No. HB 226 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

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Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

EX. 9

HOUSE BILL 226

TESTIMONY BEFORE THE HOUSE COMMITTEE ON LABOR
AND INDUSTRY, JANUARY 20, 1983.

I am Pitch Rafferty from Three Forks, Montana. I am a boiler operator, and I operate the boiler for Cyprus Industrial Minerals. I am here today to speak in opposition to House Bill 226, which removes the qualifications for boiler inspectors as they are currently set by law.

I have operated boilers since 1970. I have been with Cyprus Industrial for ten years. Prior to that, I operated small boilers for the city of Helena with the Urban Renewal Project. These were heating boilers for hotels and apartments. I also operated a boiler for St. Peters Hospital in Helena.

Most people don't know the difference between a teakettle and a boiler. From my own experience, I can tell you that boilers are very complicated. The person inspecting those boilers had better know what he is doing, or there can be real danger to the worker and for the public. The qualifications now required make sure that the boiler inspector has the knowledge and the experience to do a competent job.

Committee members, let me ask you a question. If you were the inspector would you allow the longitude lap seam of an HRT boiler with a minor pinhole or blister on the seam be repaired in a school or apartment house where you live? Or would you require that the entire boiler be replaced? The answer is, you better not try to repair it, or the whole boiler could blow up. An inspector without practical experience working on boilers would probably never know that. I wouldn't want to live, or work, or have my kids go to a school where I wasn't sure that the boiler inspector knew every last little detail about boilers.

The people with the experience that the qualifications now require have the ability to and knowledge to ensure the safety of the public and the boiler operator. Those qualifications should remain in the law.

I also wouldn't feel comfortable working on a boiler, or having my kids go to school where the boiler is inspected by someone connected with the sale or manufacture of boilers. That could cause real serious problems. The law as it is now prohibits that for state inspectors, but not for special inspectors.

I want to tell you about an experience I had with an insurance inspector who came to inspect our boilers at Cyprus Industrial. On the day the inspector was to be there, we had the boilers torn apart for an internal inspection. He never showed up on that day, so my boss took pictures of the boilers, and the inspector inspected the pictures, not the actual boilers. I am afraid that kind of inspection could take place with the state if the law is taken off the books. I don't believe you can do a very good job just looking at pictures of the boilers.

If you are concerned about the safety and well being of workers, the public and your school kids, then get the Department to pay a salary that is high enough to hire really well-qualified inspectors. Don't remove the legal qualifications which protect us now.

Please vote against House Bill 226.

Thank you very much.

HOUSE EMPLOYMENT RELATIONS

BILL HB 226

DATE 1/20/83

SPONSOR REP. ASAY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

AMENDMENTS TO HB 163

1. Page 2, lines 6 and 7.

Following: "commence."

Strike: the remainder of line 6 and line 7
through "once"

Insert: "Once"

2. Page 2, line 12.

Strike: "alleging"

Insert: "and upon a finding by the court"

STANDING COMMITTEE REPORT

January 20,

1983

19

SPEAKER:

MR.

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

HOUSE

201

having had under consideration Bill No.

First

reading copy (white)

color

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN THE FINAL ORDER CONCERNING AN UNFAIR LABOR COMPLAINT MUST BE ISSUED FROM 5 MONTHS AFTER A COMPLAINT IS SUBMITTED TO THE HEARING OFFICER TO 3 MONTHS AFTER FINAL BRIEFS ARE SUBMITTED TO THE HEARING OFFICER; AMENDING SECTION 39-31-406, MCA."

HOUSE

201

Respectfully report as follows: That Bill No.

DO PASS

STATE PUB. CO.
Helena, Mont.

DEL. WILLIAMS

Chairman.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

January 20,

83

19.....

MR. **SPEAKER:**.....

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

HOUSE

225

having had under consideration Bill No.

First

reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE DIVISION OF WORKERS' COMPENSATION THE AUTHORITY TO EMPLOY AN ADEQUATE NUMBER OF QUALIFIED COAL MINE INSPECTORS AND TO PRESCRIBE THEIR POWERS AND DUTIES; AMENDING SECTION 50-73-401, MCA."

HOUSE

225

Respectfully report as follows: That Bill No.
be amended in the introduced copy as follows:

1. Title, line 8.

Following: **"THEIR"**

Strike: **"POWERS AND"**

2. Page 1, line 15.

Following: **"their"**

Strike: **"powers and"**

3. Page 2.

Following: line 1

Insert: **"(2) A person is not eligible to be a state coal mine inspector unless he is a citizen of the United States, a resident of this state, and has been actually employed in coal mining 5 years before his appointment."**

(3) A state coal mine inspector may not act as agent for a corporation, superintendent, or manager of a mine and shall in no ~~xxxxx~~ manner be in the employ of mining companies, nor shall he be interested in any way in coal mining operations, either as owner, lessee, or otherwise."

AND AS AMENDED

DO PASS

STATE PUB. CO.
Helena, Mont.

.....**NEL WILLIAMS**.....

Chairman.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

January 20, 1983

MR. **SPEAKER:**

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

having had under consideration **HOUSE** Bill No. **226**

First reading copy (**white**
color)

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING THE DIVISION OF WORKERS' COMPENSATION THE AUTHORITY TO EMPLOY AN ADEQUATE NUMBER OF QUALIFIED BOILER INSPECTORS AND TO PRESCRIBE THEIR POWERS AND DUTIES; AMENDING SECTION 50-74-201, MCA; AND REPEALING SECTION 50-74-203, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **226**
be amended as follows:

1. Title, lines 8 and 9.

Strike: lines 8 and 9 ~~through "MCA"~~

Insert: "DUTIES AND REDUCING THE PREREQUISITE TIME OF EXPERIENCE AND LICENSURE; AMENDING SECTIONS 50-74-201 AND 50-74-203, MCA."

2. Page 1, line 16.

Strike: "powers and"

3. Page 1, lines 18 and 19.

Strike: these lines ~~in their entirety~~

Insert: "Section 2. Section 50-74-203, MCA, is amended to read:

"50-74-203. Qualifications of boiler inspectors. No person is eligible to hold the office of inspector of boilers and steam engines who has not had at least 10 1/2 years of actual experience in the operation of steam engines, steam boilers, and steam machinery and who has not held for at least 3 1/2 year immediately preceding his appointment a first-class stationary engineer's license of the state of Montana or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery or any patented article required to be sold relating thereto."

AND AS AMENDED
DO PASS

MRS. WILLIAMS Chairman.