

HOUSE LABOR AND EMPLOYMENT RELATIONS
January 25, 1983

The House Labor and Employment Relations Committee convened on January 25, 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 House Bill 270.

HOUSE BILL 270

REPRESENTATIVE JERRY DRISCOLL, District 69, chief sponsor, said this legislation would allow a claimant who was off work due to injury and received compensation during his period of disability to freeze his wage credits for 18 months. This means that when he became able to work again, but was not able to secure employment, he would not be denied unemployment benefits because of lack of wage credits.

HAROLD KANSIER, Department of Labor, said this bill would not affect a great many individuals. He said he had done a quarter study and it would be between five to seven workers. When a person is ready to go back to work, this bill would give him unemployment benefits until he found a job.

SENATOR JOHN MOHAR, District 11, said this has affected a couple of people in his area. He said it was a good bill and would not affect many people, but would really help those it did.

DON JUDGE, Montana State AFL-CIO, spoke in support and a copy of his testimony is Exhibit 1. He added that a person must be able, willing and ready to work and is not automatically qualified.

REPRESENTATIVE CLYDE SMITH, District 18, said he supported the bill.

WYATT FROST, Three Forks, representing UCLGAW Local #239, spoke for the bill and a copy of his testimony is Exhibit 2 of the minutes.

There were no opponents.

REPRESENTATIVE DRISCOLL closed.

There were no questions from the committee.

Chairman Williams closed the meeting on HB 270 and opened the meeting on HB 256.

HOUSE BILL 256

REPRESENTATIVE NORM WALLIN, District 76, chief sponsor, said this is an act to place unemployment compensation interest and

penalty collections by the Department of Labor and Industry in the state general fund. He said the money should be sent to the general fund and used as earmarked funds and appropriated by the legislature as needed.

DAVID HUNTER, Commissioner, Department of Labor and Industry, spoke in opposition. He said this would be taking money from the unemployment trust fund. He said the interest earnings on this account would then be used to subsidize the general fund and the unemployment fund would be losing out, and this is unfair to the employers.

CHAD SMITH, representing Unemployment Compensation Advisors, said they are opposed to this bill for many of the same reasons. The money that comes from employers, whether from the direct tax or penalty, should go to the trust fund. Employers should not be called on to support the general revenue requirements of the state of Montana. This is particularly true when we are faced with a shortage of millions. We shouldn't be siphoning off any of the money that the employers are required to put in. It is trust fund money and that is where it belongs. He felt that the amendment on page 2 should be preserved but not the last one on page 4. So he requested the bill be amended to delete the proposed amendment on page 4 and preserve the one on page 2.

DON JUDGE, Montana AFL-CIO, spoke in opposition and a copy of his testimony is Exhibit 3.

WYATT FROST, Cement Workers #239, spoke next in opposition and a copy of his testimony is Exhibit 4.

Rep. Ellerd requested that questions from the committee be had before the closing statement. Permission was granted from the chair.

Rep. Smith asked if the bill would serve any purpose if the amendments were put in. Mr. Hunter responded that the money would be left in the unemployment trust fund. You would be doing something that prevents the department from spending any of this money for administrative purposes. We couldn't spend any but what is authorized. He said when the penalty fund has been used, it has been used for one-time capital expenditures like the Bozeman purchase and the Great Falls job service office building. That would be prohibited by this amendment.

Rep. Ellerd asked Mr. Hunter if he could operate the department without the use of this fund. Mr. Hunter said these have been used for only an emergency or capital operation and he didn't think it would have significant or detrimental effect.

Rep Ellerd asked Mr. Smith if he felt the money should be used for other purposes such as land purchases. Mr. Smith said he didn't believe the fund should be put into another fund and should be used for the payment of benefits. Mr. Smith suggested earmarking this as interest money and using it to pay the interest on the federal loan.

Rep. Hannah said this money has come in under penalty interest and, since it is anticipated that all the money for benefits will be spent by the end of February, shouldn't we be using all the penalty and interest money to pay for benefits. He asked, historically, how much of this money goes for payment of benefits. Mr. Hunter said, with the exception of those few instances, all has gone to pay benefits.

Rep. Harper asked if some of the money could be used to help keep some of the outlying job services open. The reply was that SB 213 will allow the legislature to decide if the job services are going to remain open.

REPRESENTATIVE WALLIN closed. He quoted from a letter from the Legislative Auditor's Office which said these funds can be used to purchase the land in Bozeman. He said we have no handle on this kind of thing. He said we have to decide whether we want the legislature to be responsible to handle the money or if we want a division to handle it.

Rep. Williams asked if the money wasn't authorized by the legislature. Rep. Wallin said it was appropriated in May and the land was bought in March.

Rep. Smith asked of Rep. Wallin if he thought it was right to charge the employer for the unemployment insurance fund and then take a portion and put it into the general fund. Rep. Wallin said we should have control of the expenditures and the money that comes in.

Rep. Wallin said he wished to explain again that the money was spent before the money was appropriated. He said he could document this.

Chairman Williams closed the hearing on HB 256 and opened the hearing on HB 281.

HOUSE BILL 281

REPRESENTATIVE BOB DOZIER, District 61, chief sponsor, said this was an attempt to provide for more flex time for public employees. He said there are some problems with the way it

is drafted so the bill needs some work. He said the subject is well worth the doing - provides for a 14-day, 80 hour pay period. He said, unfortunately, the way it is written every individual can work out different schedules. He said an Attorney General's Opinion says cities with a charter can use these kinds of hours now, but he didn't know if that decision will hold up in court.

MAE ANN ELLINGSON, City of Missoula, spoke in support, and a copy of her testimony is Exhibit 5.

BILL VERWOLF, City of Helena, spoke next in support. A copy of his testimony is Exhibit 6.

CHAD SMITH, Montana Hospital Association, spoke in support. He said he was speaking for three hospitals - three county hospitals. He said there are 70 hospitals in Montana but most are community or privately owned hospitals and not covered by the state law. He said they already under the federal law have an 80-hour provision. He said SB 143 deals with the same subject in the hospital field. He felt this would benefit the hospitals and he asked for the committee's support of the bill and of SB 143 when it appeared.

VERN ERICKSON, Firemen Association, said there is another bill that deals with the same thing for firefighters. He said they feel the fire department shift is a little different and so have designed a bill that is for firemen only.

DICK KANE, Labor Standards Division, spoke as an information person. He said the Supreme Court Decision ruled that the provision is not subject to the provision of the overtime so the language addressing the firefighters was moved to the section addressing the wages. It does not provide for overtime as does the present law. He left a copy of the court case which is Exhibit 7.

CARL THOMPSON, Traffic Technician, City of Missoula, sent a letter supporting the bill and this is Exhibit 8.

Questions were asked by the committee.

Rep. Driscoll asked if any of the flex workers would be interested in voluntary overtime. Ms. Ellingson said no.

Rep. Harper asked of Bill Grove concerning the police force and the shifts. Mr. Grove said they come under the regular employee part. He felt the bill could cover the police.

Rep. Miller asked if Mr. Smith saw any detrimental effects on the switch to four 10-hour days. Mr. Smith said it would depend upon the employee and how much personal energy he had.

Rep. Miller asked if this overtime has been a problem. Mr. Erickson answered that he didn't think it has been. He said they are doing this not because of a problem but because of the Attorney General's Opinion. He said they are just trying to clear that up.

Chairman Williams closed the hearing on HB 281 and opened the hearing on HB 271.

HOUSE BILL 271

REPRESENTATIVE BOB THOFT, District 92, chief sponsor, said overcrowding and idleness were said to be two of the main problems at the prison. He felt it was important to try to develop a good work ethic. He said he had put in quite a lot of time to determine the needs. He said this bill would make 85 jobs for prison inmates. He said he realized the bill would delete some jobs in the Fish, Wildlife and Parks Department but he felt that could be handled by attrition. He said it would take an additional building to house these proposed industries. He said the bill does need some amending, but he said he had talked to the Chairman and he had been asked to go ahead with the bill and then get together and work out the amendments. He said most of his proponents were in Deer Lodge and unable to come testify.

CARROL SOUTH, Department of Institutions, said they support the concept of the bill but it would need amendments to make it work. He said he was totally opposed to the bargaining language and couldn't support it with that in. He felt it should be amended in such a way that it was permissive. He said the Federal Highway Act was amended prior to December, 1982, so no inmate labor can be used on highway projects. He said they must also determine if they can meet the needs of all the named agencies - that they can prepare all signs. He said a diversion clause is also needed - highway earmarked funds and a manufacturing diversion that would need to be addressed. He said there are special requirements for such an industry as this, so a lot of pieces will have to fall in place before we could do it. He said they would use the same building as houses the license shop and the maintenance shop would be relocated. He said they cannot do this without legislative approval, and they would prefer having it permissive rather than mandatory at this time.

WILLIAM OLSON, Montana Contractors Association, said he rises in adamant opposition. He said the purpose of government is to service the taxpayers and not compete with them. He questioned the new section that says state agencies shall have their signs prepared by the inmates. He said it is nice to have a market developed for you. He said private enterprise would have to cut their prices. He said they have some members that contract for highway signs and do contract work for two other agencies. He said this shouldn't be done at the expense of private enterprise. He said North Dakota and Wyoming have tried the same operation and have put in sign shops in their penal institutions. He said the Wyoming's sign shop is empty as the inmates have not wanted to do the work. He said North Dakota's quality of material is very poor. He said it's a place where non-specification materials are dumped. He said the total Montana market in signs is \$300,000.

MITCH MIHAILOVICH, Montana State Building Trades, spoke in opposition. He said the bills would eliminate 5-15 jobs.

TOM YUHAS, Montana Signworks, spoke next in opposition. A copy of his testimony is Exhibit 9.

BARRY J. SIMMONS, Montana Signworks, spoke next in opposition and a copy of his testimony is Exhibit 10.

DON JUDGE, Montana State AFL-CIO, spoke in opposition, and a copy of his testimony is Exhibit 11.

REPRESENTATIVE THOFT in closing said the Wyoming institution is empty because of the administration. He asked what can we give the inmates to do that won't compete in the private sector; and that will, hopefully, keep them out of prison once released. If we can work something out, it will benefit all who pay taxes. He said do we want to establish an industry and prepare these people for coming out or do we just want to warehouse them?

Questions were asked by the committee.

Rep. Driscoll asked Mr. South what wages the prisoner makes. The answer was \$.43 an hour plus room and board. Rep. Driscoll asked why the 10 percent reduction. Mr. South said it relates to the efficiency of inmate labor.

Rep. Ellerd asked what other prisons around the country do in their work programs. Mr. South said 38 states have sign shops.

Rep. Ellerd asked if inmates do labor jobs - common labor. Mr. South said, basically, no with a few exceptions as there are federal restrictions. Rep. Ellerd asked about the possibility of unionizing prisoners and having them work and be paid the minimum wage from which one would deduct room and board and let them keep the rest so they can help support their families. Mr. South said it costs \$113,000 for a prisoner and in Montana you can't bill them for their keep.

Rep. Ellerd asked Mr. Judge if he supported work for inmates. Mr. Judge said first off he didn't feel a minimum wage was a living wage, and if it's a case of competing with the private sector during one of the highest levels of unemployment, he would have to be opposed.

Chairman Williams closed the hearing on HB 271 and opened the meeting to an executive session.

EXECUTIVE SESSION

HOUSE BILL 270 Rep. Dozier moved DO PASS. Motion carried unanimously.

HOUSE BILL 276 Rep. Addy moved DO PASS. An amendment was suggested by Rep. Smith to leave the money in the trust fund. Rep. Harper said he didn't feel that could be done as that would change the bill's purpose. Rep. Addy changed his motion to DO NOT PASS.

Rep. Ellerd asked if there was any way to amend the bill so the funds could stay in the trust fund but could not be used for land purchases or anything other than benefits. He said he had strong objections to having a fund set up to help unemployed people and then use it to buy land. Mr. Hunter said he thought that would have to be done with another bill.

Rep. Ellerd requested the bill be held to see if there was a way to amend it. Rep. Addy said he would defer to the wishes of his colleague. Rep. Harper said the main purpose is that this doesn't happen again and just by introducing this bill the people involved should be thoroughly sensitized. Rep. Ellerd said the bill isn't meant to embarrass anyone.

Rep. Driscoll moved to TABLE the bill. This motion carried with Rep. Ellerd voting no.

The meeting adjourned at 2:25 p.m.

Respectfully submitted,


J. MELVIN WILLIAMS, CHAIRMAN

Emelia A. Satre, Sec.

Ex. 1



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 270, BEFORE THE HOUSE COMMITTEE ON LABOR AND INDUSTRY, JANUARY 25, 1983

I am Don Judge, representing the Montana State AFL-CIO in support of House Bill 270.

The intent of this bill is to provide that people who have had the double misfortune of having been temporarily totally disabled, and then when able to return to the job market, not able to find work will be eligible to receive unemployment insurance benefits.

Currently, to qualify for unemployment insurance the law provides that: "an individual must have been paid wages for insured work in the first four quarters of the last five completed quarters, immediately proceeding the first day of the benefit year." A few workers do not meet that qualification because of temporary total disability, which is by definition "A condition resulting from an injury, as defined in this chapter, that results in total loss of wages and exists until the injured worker is as far restored as the permanent character of the injuries will permit. Disability shall be supported by a preponderance of medical evidence". (39-71-116)

With the economy going through tough times as it is, the injured worker's former job or even other jobs may not be available when a worker with such a disability is able to return to work. Having received no wages during the base period, the worker would not qualify for unemployment benefits.

This bill would allow a disqualification of this sort to be remedied by substituting wage credits from employment prior to the disability for unemployment benefit qualification.

Very few people would be affected by this bill, according to the State Labor Department, probably only six or seven a quarter, at the most. Yet it is a necessary measure to prevent those few people from having had to suffer, not only from a disability, and then loss of employment, but also disqualification for unemployment benefits.

We ask for your support of House Bill 270.

Thank you.

WITNESS STATEMENT

Name Wyatt J. Frost Committee On _____
Address Box 804 Three Forks Date _____
Representing Coal Workers #239 Support
Bill No. 270 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.

- 2.

- 3.

- 4.

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

Box 2



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

Wyatt Frost

NAME OF WRITER
P.O. Box 804

ADDRESS
Three Forks, Montana 59752

CITY, STATE AND ZIP

TESTIMONY OF WYATT FROST BEFORE HOUSE LABOR COMMITTEE ON HOUSE BILL 270,
JANUARY 25, 1983

Chairman, Committee Members, my name is Wyatt Frost. I am financial secretary of United Cement, Lime, Gypsum and Allied Workers Local 239, Three Forks, Montana.

The officers and members of my union request that you support House Bill 270.

Imagine yourself a worker who has been off work for a year or more because of an injury or accident. Your doctor gives you a release to return to work. Your employer tells you he has no work for you. You apply for unemployment insurance benefits and you are told that because you did not work as a result of your injury or illness, you cannot receive unemployment benefits. Because of a technicality you are between a rock and a hard place.

You are able and willing to work, but through no fault of your own, you can't. If you ever needed help, you need it now.

This bill would freeze your unemployment insurance status as of the date you became unable to work due to your injury or illness. We think it is a good idea.

We hope you agree. Thank you.

VISITOR'S REGISTER

HOUSE LABOR AND EMPLOYMENT REL. COMMITTEE

BILL HB 270

DATE 1/25

SPONSOR DRISCOLL

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
WYATT FROST	BOZEMAN	Cement Workers	X	
Dr JUDEN	Helena	MT STATE AFL-CIO	X	
ARLEN PLOWMAN	BOZEMAN	CEMENT WORKERS	X	
Harold Kousin	Helena	Mt Dept of Labor	X	
M. McCalamb	Butte	State Bldg Trades	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Ex. 3



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 256, BEFORE THE HOUSE COMMITTEE ON LABOR AND INDUSTRY, JANUARY 25, 1983

I am Don Judge, and I am here today representing the Montana State AFL-CIO. The Montana State AFL-CIO opposes House Bill 256, which would place the unemployment insurance penalty and interest collected by the Department of Labor and Industry in the state general fund. Currently, that money goes into the Unemployment Insurance Trust Fund.

Because of the severe economic recession, the Unemployment Insurance Trust Fund is on the verge of going broke. As a direct result of Reaganomics, there are more unemployed drawing from the fund, and fewer employers paying into the fund. There are over 37,000 jobless Montanans now, and projections that this number could go as high as 50,000 in the coming months. It doesn't make any sense to us that this bill would take more money away from the fund, at the same time other bills are being introduced to replace money in it. We strongly oppose any measures which would reduce benefits to unemployed workers, and taking more money away from the trust fund, could lead to penalizing these Montanans.

The Unemployment Insurance Division averages between \$300,000 and \$400,000 per year in collections of penalty and interest. That money could be used for benefits or for administrative purposes. In the last two years, that money has earned \$177,000 in interest for the trust fund. That interest earned can be used only for benefits. Jobless Montanans need that money to help mitigate the devastating effects of unemployment. And, as workers use their unemployment insurance money to purchase goods and services, it helps local merchants keep their businesses going.

The present law is just; it provides that penalties and interest collected from employers on past due contributions for unemployment insurance are placed in the Unemployment Insurance Trust Fund. That is the purpose for which it was intended, and it is more important now than ever that money be placed in the fund, not removed from it. Please vote against House Bill 256.

Thank you.



WITNESS STATEMENT

Name Wyatt L Frost Committee On _____
Address Box 804 Date _____
Representing Cement Workers #339 Support _____
Bill No. 256 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.
- 2.
- 3.
- 4.

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



Ex. 4

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

Wyatt Frost

NAME OF WRITER

Box 804

ADDRESS

Three Forks, Montana 59752

CITY, STATE AND ZIP

TESTIMONY OF WYATT FROST BEFORE HOUSE LABOR COMMITTEE ON HOUSE BILL 256
January 25, 1983

Chairman, members of the Committee, my name is Wyatt Frost. I am Financial Secretary of United Cement, Lime, Gypsum and Allied Workers, Local 239, Three Forks.

We rise in opposition to this bill.

Myself and a majority of my fellow local union members are being forced to depend upon unemployment insurance benefits as our primary source of income, because of extensive lay-offs. I can assure you that we would rather be earning a paycheck.

Because we are laid-off, our interest in the unemployment insurance system has intensified.

The Unemployment Trust Fund is in trouble. It needs every penny it can get.

We doubt if the interest and penalties now going into the Trust Fund is a major source of income. But every little bit helps.

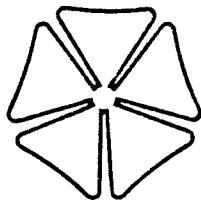
Any reduction in the Trust Fund income will be an added cost for employers and a reduced benefit for workers.

We do not see how this bill could be good for employers or workers.

We respectfully ask that you oppose this bill

Thank you.

6x.5



THE GARDEN CITY
HUB OF FIVE VALLEYS

Missoula, Montana 59802

January 25, 1983

OFFICE OF CITY ATTORNEY
201 West Spruce Street
Phone 721-4700
83-70

TO: MEL WILLIAMS, CHAIRMAN
MEMBERS OF HOUSE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

FROM: MAE NAN ELLINGSON FOR THE CITY OF MISSOULA

RE: HB 281

The City of Missoula supports HB 281 as introduced by Representative Dozier for two reasons: first, it will clarify what the state law is relative to whether public employees and public employers can agree to work hours other than five 8-hour shifts; and secondly, it will specifically address the issue of whether firefighters can bargain for work shifts and schedules other than those statutorily defined.

As to the first point, state law currently provides in Section 39-4-107 that:

- (1) A period of 8 hours constitutes a day's work in all works and undertakings carried on or aided by any municipal or county government, (or) state government....
- (2) For firefighters in cities of the first and second class, a work-week consists of a maximum of 40 hours during a 5-day week.

In spite of this language the Attorney General's Office issued an opinion in June of 1980 holding that "local law enforcement agencies may, with the consent of the affected employees, schedule a 40-hour workweek consisting of four consecutive 10-hour days." On the strength of that opinion, even though it applied only to law enforcement, the City has negotiated contracts with its street department workers and police officers for four 10-hour shifts. We would feel on safer ground, however, if we were operating pursuant to state law rather than an Attorney General's Opinion. In that Attorney General's Opinion, 38-83, he noted, "It would be appropriate for the Legislature to amend the strict language of Section 39-4-107, MCA to make it compatible with current employment practices and court interpretations." You might think it appropriate that the judicial branch interpret the law as written until you change it rather than revise the law themselves through interpretation and then suggest you amend the law. I would not disagree with you on that. Nevertheless there does exist a discrepancy between what the statute book says on its face and what the court says the law is, so those of us who have to deal with the statute would appreciate some clarification.

Before I go on to the second reason we support this bill, I should add that the City of Missoula has had great experience with more flexible working arrangements.

Mel Williams, Chairman
Members of House Labor and Employment Relations Committee
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As mentioned earlier, our police officers work a 40-hour workweek consisting of four 10-hour shifts. Our officers requested this shift change at the bargaining table because it gave them 3 days off between workweeks. The shift allows the department some flexibility in scheduling and allows the overlapping of shifts during peak incident times. The overlapping also allows us to avoid gaps in patrol which would occur because the ongoing shift must be briefed and the terminating shift must finish paper work.

The four 10-hour day work shift has been used in the City streets, parks and vehicle maintenance departments to take advantage of long daylight hours, cut down on employees travel time to and from the job, reduce down time for breaks, reduce fuel costs and to improve morale.

I want to emphasize that in the City of Missoula that in every case the request to work four 10-hour shifts has originated from the bargaining unit, not the employer. What we are talking about in this legislation is the ability of the employer and employee to agree to a work schedule other than five 8-hour days.

The second thing that this bill would do is change the law relative to work hours of firefighters. As you can see from the provisions of Section 7-33-4126, state law currently says that firefighters shall be divided into platoons of three shifts each working no more than 8 hours in each 24-hour period.

Most cities and firefighters associations have taken or had taken the position that, notwithstanding this section of law, firefighters and their employers could probably bargain for some other shift that was more to their liking for whatever reason and they did so. In October of 1981 the Attorney General issued another opinion, this time holding that a firefighter's work schedule must conform to Section 7-33-4126 and that the firefighters and their employers cannot agree to work a schedule any different than the one statutorily provided.

On the strength of this opinion, the City of Missoula has reverted to the statutorily prescribed 8-hour shifts and it appears that efficiency and certainly morale are suffering.

The bill as proposed then would allow firefighters and their employees to agree to work shifts other than the one statutorily prescribed. The standard five 8-hour shifts, 40 hour workweek for firefighters is the exception rather than the norm. Because of the unique nature of the firefighting service, firefighters nationwide and in the Northwest average greater than 40 hours per week. In most states the hours of work are not stipulated by state law. State and local jurisdictions alike recognize the nature of firefighting which allows for many hours of nonproductive standby. Consequently the practice of requiring a greater than 40-hour workweek is wide spread. The average for 301 municipalities in the 25,000 to 50,000 population range was 52.46 hours per week (1981 Municipal Year Book). An average for cities of comparable size in the Northwest was 50.57 hours per week according to the same source. (1981 Municipal Year Book) the following cities are included:

Mel Williams, Chairman
Members of House Labor and Employment Relations Committee
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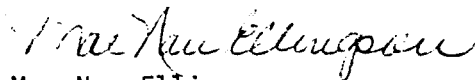
Bellingham, WA	55	Corvallis, OR	56
Butte, MT	40	Everett, WA	42
Casper, WY	56	Helena, MT	47
Cheyenne, WY	50	Idaho Falls, ID	56
Longview, WA	51	Olympia, WA	56
Medford, OR	56	Pocatello, ID	56
Missoula, MT	40	Renton, WA	47

State law limiting firefighters to a 40-hour workweek imposes a significant cost on Montana municipalities. For example, in Missoula the manpower requirement to operate an average 40-hour shift, compared to a 42-hour shift, is three more full time employees or \$60,000 at an average cost of \$20,000 per firefighter.

This bill as proposed does not mandate that firefighting personnel work more than 40 hours a week, but rather it allows firefighters and their employees to bargain and ultimately agree to a work schedule of their choosing.

For these reasons, the City of Missoula encourages your support of this bill as submitted.

Respectfully,



Mae Nan Ellingson
Deputy City Attorney
201 West Spruce
Missoula, Montana 59802

MNE:kjr

WITNESS STATEMENT

Name Bill Verwolf Committee On Labor
 Address 1029 3rd Helena Date Jan. 25, 1983
 Representing City of Helena Support X
 Bill No. HB 281 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This bill provides a method to allow, where the municipal or county government, and the employees, agree, a work week other than the standard 5-day, 8 hours per day schedule.
2. The flexibility allowed by this is to the advantage of the employer and the employee in allowing a nonstandard work schedule where it is advantageous to both parties.
3. This bill does not provide for unilateral decisions by either party.
- 4.

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

No. 12100

IN THE SUPREME COURT OF THE STATE OF MONTANA

1971

THE CITY OF BILLINGS, a municipal Corporation and YELLOWSTONE COUNTY, MONTANA, a body politic,

Plaintiffs,

-vs-

THE HON. SIDNEY T. SMITH, Commissioner of Labor of the State of Montana,

Defendant.

ORIGINAL PROCEEDING:

Counsel of Record:

For Plaintiffs:

- Harold F. Hanser, County Attorney, argued, Billings, Montana.
- John R. Davidson, City Attorney, argued, Billings, Montana.
- Donald Ostrem, City Attorney, argued, Great Falls, Montana.
- Perry J. Moore, Intervenor, argued, Harlowton, Montana.
- J. A. Alexander, City Attorney, Butte, Montana.
- C. W. Leaphart, Jr., City Attorney, Helena, Montana.
- Ralph T. Randon appeared, Great Falls, Montana.

For Defendant:

- Hon. Robert L. Woodahl, Attorney General, Helena, Montana.
- Lawrence D. Huss and John P. Connor, Jr., Assistant Attorney Generals, argued, Helena, Montana.
- D. Patrick McKittrick, Amicus Curiae, argued, Great Falls, Montana.
- John C. Hall, Amicus Curiae, Great Falls, Montana.
- John C. Sheehy, Intervenor, argued, Billings, Montana.
- William Jensen and Thomas Ashton, III appeared, Helena, Montana.

Submitted: September 30, 1971

Decided: OCT 29 1971

Filed:

Thomas J. Kelly Clerk

Mr. Justice Wesley Castles delivered the Opinion of the Court.

This is an original proceeding seeking a declaratory judgment that House Bill No. 338, Chapter No. 417, Laws of 1971, called the Minimum Wage Act, is unconstitutional, or that certain persons are excluded from its provisions, or that in any event, certain persons can by contract waive the provisions of the Act. The City of Billings and the County of Yellowstone filed their petition, and this Court accepted original jurisdiction.

As a result of this Court's order accepting jurisdiction, other parties have been permitted to appear designated as amicus curiae or interveners. They include intervener, John H. Bangs; amicus curiae, Montana State Firemen's Association, Montana Legal Services Association, John C. Hall, City of Helena, City of Great Falls; and intervener, John C. Sheehy.

The City of Billings, the County of Yellowstone, the City of Helena, and the City of Great Falls will all be treated as plaintiffs. Sidney T. Smith is Commissioner of Labor of the State of Montana, represented by the Attorney General and will be called defendant. Unless otherwise indicated, the terms plaintiffs and defendant will include positions of interveners and amicus curiae.

Two general issues are presented by the petition seeking a declaratory judgment. One is an attack on constitutionality; the other seeks a determination of the legality of the defendant's decision holding that police officers, firemen and deputy sheriffs are covered by the Act in question.

The Act consists of its title; Section 1, a declaration of policy; Section 2, definitions; Section 3, compensation; Section 4, exclusions; Section 5, regulation making and administrative power

to the Commissioner of Labor; Section 6, enforcement; and Section 7, provisions to be cumulative. No savings clause appears.

The title of the Act is as follows:

"AN ACT TO ESTABLISH MINIMUM WAGES AND HOURS FOR EMPLOYEES IN THE STATE OF MONTANA; DELEGATING TO THE COMMISSIONER OF LABOR THE DUTY OF ADMINISTERING THE ACT; AND PROVIDING ENFORCEMENT."

In Section 4 are listed exclusions, among which is subdivision (j):

"Any individual employed in a bona fide executive, administrative, or professional capacity as these terms are defined and delimited by regulations of the commissioner."

Section 5 provides:

"Regulations. The commissioner shall make and revise administrative regulations to carry out the purposes of this act. Such regulations shall take effect upon publication by the commissioner. Any person who is aggrieved by an administrative regulation may obtain a hearing before the commissioner upon filing written protest with the commissioner who shall thereupon set such matter for hearing in the county of residence of such protestant within thirty (30) days after receipt of such protest. After such hearing, the commissioner shall promulgate such further administrative regulations as the evidence produced at said hearing shall justify."

Pursuant to Section 5, the Commissioner, defendant here, issued regulations, including a regulation further defining and delimiting the words -- executive, administrative and professional, as used in the exclusion set forth above in subdivision (j) of Section 4.

The plaintiffs here are the City of Billings and the County of Yellowstone. The city has policemen and firemen employed; the county has deputy sheriffs employed. Because of the nature of both law enforcement and fire protection work, and from past custom, practice and agreement, these officers work overtime by assignment

and because of the natural progression of what might be termed investigative or duty requirements. We observe parenthetically that crimes and fires do not keep regular shift hours; budgets and planning are therefore difficult.

Following the issuance of regulations defining the term "individual employed in a bona fide professional capacity", plaintiffs sought and received an interpretation by the Commissioner of Labor. He ruled, in writing, that police officers, firemen, and deputy sheriffs were not excluded under the Act.

The action was brought. Defendant, as well as some of amicus curiae, attack the action by motion to dismiss on procedural grounds (1) that no emergency exists and this Court should not accept original jurisdiction, (2) that administrative remedies have not been exhausted, and (3) that there are fact issues which should be tried in the trial court. The latter two grounds are tied together in that further administrative hearings might be needed to determine whether individual officers have enough training, experience and scientific know-how to qualify for "professional" status and thereby be exempt from provisions of the Act.

In this opinion,^{we} shall neither go into nor determine the facts. We deny the motion to dismiss as to the ground of our acceptance of original jurisdiction. The emergency nature clearly appears sufficient for this court to determine the legality of the Act since its effect is broad upon all the citizens of Montana. See Rule 17, M.R.App.Civ.P.; State ex rel. Schultz-Lindsay v. State Board of Equalization, 145 Mont. 330, 403 P.2d 635.

Plaintiffs' first contention is that the Act is unconstitutional in:

(a) The title is defective in contravention of Article V, Section 23 of the Montana Constitution.

(b) It is an invalid delegation of legislative power in that it delegates power of definition of terms as well as power to administer and enforce the Act without standards or guidelines.

(c) The Act is so vague, Section 4(j) in particular, that by providing criminal penalties the Constitution is violated.

(d) No savings clause, so if the Act is defective in one part the entire Act fails.

(e) It is also urged that the classifications are arbitrary and result in a lack of uniformity.

Article V, Section 23 of the Montana Constitution provides:

"No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed." (Emphasis added)

This Court in *City of Helena v. Omholt*, 155 Mont. 212, 219-221, 468 P.2d 764, discussed the application of Article V, Section 23 to an appropriation bill, H.B. 557, Laws of 1969:

"The title of the appropriation bill, House Bill No. 557, contains this language:

"'An Act Appropriating Money to the State Auditor From the Police Account of the Earmarked Revenue Fund for the Biennium Ending June 30, 1969, for the Purposes Enumerated in Chapter 261, Laws of 1965; and Providing the Method of Disbursement.'

"This title indicates that the purpose of the appropriation bill is to appropriate money to carry out the purposes enumerated in Chapter 261, Laws of 1965 (codified as sections 11-1834 through 11-1837, R.C.M. 1947). The enumerated purposes of Chapter 261, Laws of 1965, are expressed in its title:

"An Act to Provide for Annual Payments From the Premium Tax Collected on Motor Vehicle Insurance to Every City or Town Having a Police Department; Providing How Such Payments Shall be Expended by The Cities or Towns."

"The provision for annual payment to every city or town is mandatory. Section 1 of Chapter 261, Laws of 1965 (codified as section 11-1834), provides in pertinent part:

"At the end of each fiscal year the state auditor shall issue and deliver to the treasurer of each city and town in Montana, having a police department, his warrant in an amount * * * [determined by the formula used for fire departments]".

(Emphasis added; bracketed material paraphrased.)

"This mandatory annual payment of state funds to every city and town having a police department is not effectuated by Section 2 of House Bill No. 557. On the contrary, such purpose is defeated thereby. Section 2 prohibits disbursement of state funds appropriated to make these mandatory annual payments to those cities and towns not meeting certain qualifications and requirements, principally those cities not making a mill levy for payment of reserve police officer's salaries and those cities not withholding 5% of the salaries of its active police officers."

"In addition the title of House Bill No. 557 contains the concluding phrase 'and Providing the Method of Disbursement'. Nowhere in the body of the act is any mention made of any 'Method of Disbursement', unless the prohibitions and restrictions on any disbursements to nonqualifying cities falls within the ambit of that term. We conclude that such interpretation requires an active and fertile imagination, and decline to so construe it."

"For the foregoing reasons, House Bill No. 557 contains a false and deceptive title. Art. V, Sec. 23 of the Montana Constitution is designed to prevent legislators and the people from being misled by false or deceptive titles. This Court succinctly summarized this purpose in Johnson v. Meagher County, 116 Mont. 565, 570, 155 P.2d 750:

"What were the purposes of section 23 of Article V of the Constitution? "Stated briefly, these purposes are to restrict the Legislature to the enactment of laws the subjects of which are made known to the lawmakers and to the public, to the end that any one interested may follow intelligently the course of pending bills to prevent the legislators and the people generally being misled by false or deceptive titles, and to guard against the fraud which might

result from incorporating in the body of a bill provisions foreign to its general purpose and concerning which no information is given by the title." (Citing cases.) (State ex. rel. Foot v. Burr, 73 Mont. 586, 238 P. 585.)'

"To like effect see Hale v. Belgrade Co., Ltd., 74 Mont. 308, 240 P. 371; State ex rel. Holliday v. O'Leary, 43 Mont. 157, 115 P. 204; Russell v. Chicago, B. & Q. Ry. Co., 37 Mont. 1, 94 P. 488, 501; Yegen v. Board of County Commissioners, 34 Mont. 79, 85 P. 740; State v. Brown, 29 Mont. 179, 74 P. 366. The test under this provision of the Montana Constitution is simply this --- Is the title of legislation in question of such character as to mislead the public or members of the legislature as to the subjects embraced? State v. Driscoll, 101 Mont. 348, 54 P.2d 571; Arps v. State Highway Commission, 90 Mont. 152, 300 P.549."

Here, we have a simple, brief title which grants the Commissioner of Labor the authority and duty to administer the Act. Section 2 of the Act defines seven words or terms--- commissioner, wage, employ, employee, occupation, farm worker, and, farm or ranch. Then, in Section 5 the commissioner is granted power to carry out the purpose of the Act. He can, and did, define the terms in the exclusion section, Section 4(j), and further, determined and delimited the terms within standards marked out by the fair and natural meaning of the terms used.

In Bacus v. Lake County, 133 Mont. 69, 81, 354 P.2d 1056, this Court said:

"Delegation of power to determine who are within the operation of the law is not a delegation of legislative power. * * * But it is essential that the Legislature shall fix some standard by which the officer or board to whom the power is delegated may be governed, and not left to be controlled by caprice."

"We agree with this statement of the law and go further by saying that the standard must not be so broad that the officer or board will have unascertainable limits within which to act."

In Sigety v. State Board of Health, ___ Mont. ___, 482 P.2d 574, 28 St.Rep. 268, this Court again discussed Article V, the validity of Section 23 of the Montana Constitution as it affected the Dredge Mining Regulation and Land Preservation Act, holding that the body of that act, in effect, added to the title other forms of mining than simple dredge mining and was thus invalid. Sigety is distinguishable because here the title puts anyone on notice that the Act seeks to regulate wages and hours and delegates the duty of administering the Act to the commissioner.

Plaintiffs, however, insist that nowhere can we find the standards and guidelines, and contend that the policy of the Act is not sufficiently set forth.

Plaintiffs rely on Bacus. The Act in question here, when read as a whole, spells out the purpose and the procedures to be used to implement the Act. It sets forth the duties of the commissioner, wages that must be paid, and persons excluded. By contrast, in Bacus section 69-801, R.C.M. 1947, purported to give Boards of Health unrestricted, even omnipotent, authority to enact rules and regulations pertaining to "prevention of disease and the promotion of public health". We found this to be without sufficient standards and to give unascertainable limits. Conceivably, under "promotion of public health" the boards might even have regulated hours of work! We held that unconstitutional.

In Milk Control Board v. Rehberg, 141 Mont. 149, 161, 376 P.2d 508, it was contended that an invalid delegation of legislative power was granted to the milk control board. The Milk Control Act provided the board should act to provide producers and distributors of milk with a reasonable profit. It did not say the board had the power to set a minimum price, but this Court upheld the act,

stating. " * * * reasonable profit contemplates a minimum price at which milk can be sold in view of surrounding circumstances. The power to set a minimum price was held to bear a real and substantial relationship to the object to be attained.

The Act here, the Minimum Wage Act, actually gives more specific guidelines than did the Milk Control Act.

For further discussion of the Bacus rule, see *City of Missoula v. Missoula County*, 139 Mont. 256, 362 P.2d 939 and *Plath v. Hi-Ball Contractors, Inc.*, 139 Mont. 263, 362 P.2d 102.

So far, we have discussed the title of the Act and the delegation of legislative power as one issue. Here, we think this proper because if the subject of the legislation is sufficiently set forth in the title, and the body of the Act does not by procedural methods deceive or mislead the legislature or public then the title is not defective. There is no secretive or totally unrelated legislation within the body of the Act.

To further determine whether sufficient standards or guidelines exist, we shall look to decisions of the federal courts which have been ruling on this administrative power delegated by the Congress for decades. We look particularly to the field of labor legislation; that is, to wages and hours legislation. The Fair Labor Standards Act is similar to our Minimum Wage Act in enunciating the exemptions from the provisions of the Act.

29 U.S.C.A. § 213 provides:

"(a) The provisions of sections 206 [minimum wages] and 207 [maximum hours] of this title shall not apply with respect to ---

"(1) any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman (as such terms are defined and delimited from time to time by regulations of the Secretary * * *)."

In *Fanelli v. United States Gypsum Co.*, 141 F.2d 216 (2nd Cir. 1944), the court held that the authorization to the administrator to define and to limit by regulations the terms [executive, administrative, or professional] used in the section, did not unconstitutionally delegate power vested in the legislative branch.

In *Devoe v. Atlanta Paper Co.*, 40 F.Supp. 284, 286 (DC Ga. 1941), the court held the delegation of power to the administrator to define "employee employed in a bona fide executive * * * capacity" is constitutional, and such power is constitutionally exercised where the definition formulated by the administrator is within the limits laid down by the Congress which "* * * are marked out by the fair and natural meaning of the words 'bona fide executive * * * capacity.'" (Emphasis added). This indicates that to find the power to have been unconstitutionally exercised, this Court will have to find the definitions of the Commissioner of Labor to be outside the fair and natural meaning of the words. See *Walling v. Yeakley*, 140 F.2d 830.

Thus, we conclude the Act does not violate Article V, Section 23 of the Montana Constitution, nor does it constitute an unlawful delegation of either legislative or judicial power. (For judicial or quasi-judicial power, see *State ex rel. Lee v. Montana Livestock Sanitary Board*, 135 Mont. 202, 339 P.2d 487.)

By what we have said heretofore, we have also disposed of the third contention--that the act is so vague as to be unconstitutional.

This leaves two constitutional issues urged by plaintiffs and intervener Bangs. (1) The lack of a saving clause which only becomes important if we find one part of the act to be unconstitutional. (2) That the classifications are arbitrary and result

in a lack of uniformity, urged by intervener Bangs. In the broad sweep of our assumption of jurisdiction here, intervener Bangs would have us examine fact situations that we are not prepared to examine. Whether or not a reasonable classification is made in the Act, is beyond the scope of our inquiry here. Whether the statute is wholly lacking ⁱⁿ rational justification and is thus patently arbitrary in its Section 3 which, briefly, makes a distinction between students employed at amusement and recreational establishments operating on a seasonal basis and those employed on a year-round basis, is not here considered. We do, however, note the general rule that a statute is presumed to be constitutional and will not be held otherwise unless it clearly and palpably violates the law.

In establishing classification, it is to be presumed the legislature had before it the necessary information leading it to make such classification. *State v. Loomis*, 75 Mont. 88, 242 P. 344; *State v. Safeway Stores, Inc.*, 106 Mont. 182, 76 P.2d 81; *Calvert v. City of Great Falls*, 154 Mont. 213, 462 P.2d 182.

Having disposed of the constitutional issues, we turn to plaintiffs' second contention. In the petition, or complaint, for declaratory judgment, plaintiffs contend:

"That such act conflicts with the statutes of the State of Montana and particularly the following:

"1. Chapter 18, Section 11 of the Revised Codes of Montana, 1947, as amended and particularly Section 11-1832 R.C.M., 1947.

"2. Chapter 19, Section 11 of the Revised Codes of Montana, 1947, as amended and particularly Section 11-1932 R.C.M., 1947.

"3. Chapter 6, Section 25 of the Revised Codes of Montana, 1947, as amended and particularly Section 25-604, R.C.M., 1947 and further that the plaintiffs are in doubt as to the intention and provision of

said act in respect to whether or not deputy sheriffs, police officers and firemen are or may be excluded from the provisions of such act under Section 4(j) as being persons who are employed in a 'professional capacity'."

The responsive pleadings of defendant and intervener Sheehy bring in issue, by way of denial, the effects of the aforementioned code chapters. Additionally, the complaint alleges the defendant Commissioner of Labor has erred in his ruling that police officers, firemen, and deputy sheriffs are included within the Act.

By way of motion to dismiss, it is contended that administrative remedies have not been exhausted; that the Act grants a means of review in its Section 5; that fact issues as to the training, education and experience of officers have never been submitted; and, that therefore this Court should not rule. However, our inquiry here will be whether or not the exclusion, Section 4(j) in particular, was intended by the legislature to include policemen, firemen and deputy sheriffs. In other words, are policemen, firemen, and deputy sheriffs included in the terms "bona fide executive, administrative, or professional capacity"?

Admittedly, they are not labeled as such. However, we find an examination of Chapter 18 and Chapter 19 of Title 11 and Chapter 6 of Title 25 and the history of these chapters reveals that policemen and firemen are created by the legislature as a professional and distinct class of employees. As to deputy sheriffs, an examination reveals particularized and special treatment by the legislature sufficient to remove them from the Minimum Wage Act.

Chapter 18 of Title 11 was first enacted to cover police officers in 1907. It has been continued with amendments to date. Briefly, Chapter 18 provides for: police departments; their management; permanent appointment after examination; probationary appoint-

and no craft union; removal or suspension only as provided by law; exemption from military duty during duty time on duty; immunity from arrest while on duty; release from holding other office; barred from political activity; and, other specific qualifications are stated. Then, salary is established in Article 14. First and second class ranks, a five day work week is established and a minimum wage for a daily service of eight consecutive hours work is established. All of these provisions, and more, show a legislative history of completely separate treatment of policemen as a class. We find this legislative treatment leaves clearly the legislative intent to treat policemen as professional employees in the same sense that the law "bars side * * * professionals" under the exclusion under Section 4(j) of the Act.

In Chapter 19 of Article 14, firemen are likewise separately treated, dating back to the year 1898. The details are different and the legislative treatment of policemen, but the overall legislative intent is the same. Again we find the legislative treatment and history reveals the intent to treat firemen as professional employees in the same manner as "bars side * * * professional" individuals are treated in the exclusion under Section 4(j).

We are aware an argument can be made that had the legislature so intended, it would have said so. However, by our treatment and analysis of the Minimum Wage Act, we have shown that the legislature only established policy and basic guidelines. It did not detail it; neither did it purport to amend, but only to make the Minimum Wage Act cumulative, as will be more fully developed.

Section 25-604, R.S.M. 1947, relating to deputy sheriffs, was amended in 1971 by the same legislature that enacted the Minimum

Wage Act here considered. In that act it is provided deputy sheriffs shall not be paid a salary of more than 90% of the sheriff's salary; undersheriffs not more than 95% of the sheriff's salary. In first, second and third class counties, deputy sheriffs are to receive not less than 75% nor more than 90% of the salary of the sheriff. These are specific provisions relating to specific offices.

In the construction of a statute the office of the court is to ascertain and declare what is in terms or in substance contained in the statute, and where there are several provisions or particulars such a construction is, if possible, to be adopted as will give effect to all (section 93-401-15, R.C.M. 1947). In the construction of a statute the intention of the legislature is to be pursued if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it (section 93-401-16, R.C.M. 1947).

Where one statute deals with a subject in general and comprehensive terms, and another deals with a part of the same subject in a more minute and definite way, the latter will prevail over the former to the extent of any necessary repugnancy between them. *Barth v. Ely*, 85 Mont. 310, 278 P. 1002; *In re Stevenson's Estate*, 87 Mont. 486, 289 P. 566.

In *State Aeronautics Comm. v. Board of Examiners*, 121 Mont. 402, 417, 194 P.2d 633, this Court said:

" * * * It is a canon of statutory construction that a later statute general in its terms and not expressly repealing a prior special or specific statute, will be considered as not intended to affect the special or specific provisions of the earlier statute, unless the intention to effect the repeal is clearly manifested or unavoidably implied by the irreconcilability of the continued operation of both, or unless there is something

in the general law or in the course of legislation upon its subject matter that makes it manifest that the legislature contemplated and intended a repeal."

The specific intention of the legislature indicates, from the very provisions of the Act, in Section 7, that the legislature intended all of the provisions of law relating to minimum wages and hours to be cumulative. The Minimum Wage Act of 1971 did not repeal any prior acts. This is reinforced by the fact that in 1971, at the same time and in the same session as the passage of the Minimum Wage Act, the legislature also amended section 25-604, R.C.M. 1947, thereby at the same time placing its stamp of approval upon the provisions of that statute.

Where statutes relate to the same general subject they should be so construed together, where there is no inconsistency between them, so as to give effect to both where possible. State ex rel. Ronish v. School District No. 1 of Fergus County, 136 Mont. 453, 348 P.2d 797. All acts relating to the same subject, or having the same general purpose as the statute being construed, should be read in connection with such statute. State ex rel. McHale v. Ayers, 111 Mont. 1, 105 P.2d 335. Statutes passed at the same time, and relating to the same general subject are to be construed together and both given effect if possible. Belote v. Bakken, 139 Mont. 43, 359 P.2d 372.

The provisions of section 25-604, R.C.M. 1947, and the provisions of the Minimum Wage Act of 1971 are in conflict. In such case the special act will prevail over the general provisions of the Minimum Wage Act. Moreover, the salaries granted to county officers are based upon an annual wage rather than a monthly wage. The maximum salary of 95% or 90%, as the case may be, for undersheriffs and deputies is also the minimum fixed by that statute.

HB 281 Ex. 8
Mr. Carl Thompson
3221 Helena Drive
Missoula, Montana 59803

February 18, 1983

House of Representatives
Labor and Employment Relations Committee
State Capitol
Helena, Montana 59620

Attention: Representative Mel Williams, Chairman
and
Members House Labor & Employment Relations Committee

Dear Sirs:

I am the Traffic Technician for the City of Missoula. My shop is responsible for the installation and maintenance of traffic control devices, centerline painting, lane line painting, and curb painting within the Missoula city limits.

Due to manpower cutbacks and workload increases, we tried a 4-day, 10-hour shift schedule from May to October. We have maintained this schedule for three "painting seasons". Since we adopted this schedule we have been able to stay abreast of the work load, even with manpower shortages. As a supervisor, I find the production end of my responsibilities are greatly enhanced by utilizing the 4-day, 10-hour work week.

As an employee, I do not find the extra two hours of work to be overly tiring. The additional day off each week, particularly, in the summer, is a very welcome bonus. The only complaint I have concerning the 4-10 hour shifts is the requirement to use two hours of vacation each holiday.

I feel management and their employees should have the option to choose a 4-day, 10-hour work week. It is, however, very important to retain the 40 hour basic work week in the law.

Sincerely,



Carl Thompson

CT:vm

VISITOR'S REGISTER
 LABOR AND
 HOUSE EMPLOYMENT RELATIONS COMMITTEE

BILL HB 281

DATE 1/25

SPONSOR DOZIER

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>Richard Jena</i>	<i>Helena</i>	<i>AFSCME</i>		X
<i>Thomas Schaefer</i>	<i>Helena</i>	<i>MPBH</i>		X
<i>Jack Lane</i>	<i>Helena</i>	<i>Labour Standards Div.</i>		
<i>W. Erickson</i>	<i>Helena</i>	<i>Firefighters</i>		
<i>Bill Kervel</i>	<i>Helena</i>	<i>City of Helena</i>	X	
<i>Mac MacElligott</i>	<i>Missoula</i>	<i>City of Missoula</i>	X	

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name William Olson Committee On Labor & Industry
Address Helena Date 1/25/83
Representing Mt Contractors Union Support _____
Bill No. HB 271 Oppose X _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *Violently oppose! Let Free Enterprise work!*
- 2.
- 3.
- 4.

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

WITNESS STATEMENT

Name Mitch M. Kurland Committee On _____
Address 1900 ELM Date 1-25-83
Representing MT ST Bldg Trades Support _____
Bill No. HB - 271 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

This bill would eliminate 5-15 jobs.

2.

3.

4.

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

EX. 9

WITNESS STATEMENT

Name Tom Yuhas Committee On House
 Address 2201 Henderson Ave. Date 1/25/83
 Representing MONTANA SIGNWORKS Support _____
 Bill No. 271 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We don't believe that we should be taxed to support the prison institutions and then have to
2. compete with them for business in the private industry as provided for in this bill under line 2)
3. and be prohibited from bidding for government contracts under section 2.
- 4.

1

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

Ex. 10

WITNESS STATEMENT

Name BARRY J SIMMONS Committee On HOUSE
 Address 2201 Henderson Ave Date 1/25/83
 Representing MONTANA Signworkers Support _____
 Bill No. 271 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

Montana Signworker is doing currently

2. 10% Local, State, and Federal signwork

3. (signwork) If we cannot maintain

the 10% we will be forced to lay

4. workers off. The problem is not

keeping Montana Prisoners busy but

keeping Montanans employed.

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

Ex. 14

WITNESS STATEMENT

Name Don Judge Committee On Labor
 Address Helena Date 1/25/83
 Representing MT STATE AFL-CIO Support _____
 Bill No. HB 271 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. displaces current employees at a time when unemployment, particularly in this trade, is extremely high.
2. violates collective bargaining
3. creates a "questionable" apprenticeship program and provides for an influx of "questionably qualified craftsmen" into an already overloaded market..... what then is the value of such a "training" program.
4. competes with the private sector.

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

VISITOR'S REGISTER
LABOR AND
HOUSE EMPLOYMENT RELATIONS COMMITTEE

BILL HB 271

DATE 1/25

SPONSOR THOFT

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
<i>Mitch McLaughlin</i>	<i>Butte</i>	<i>MT. St Bldg Trade</i>		X
<i>Bill Olson</i>	<i>Helena</i>	<i>MT. Contractors</i>		X
<i>Arlene Florman</i>	<i>BOZEMAN</i>	<i>Cement Wks</i>		X
<i>WYATT FROST</i>	<i>BOZEMAN</i>	<i>Cement workers</i>		X
<i>Harry Hegg</i>	<i>Helena</i>	<i>Painters Local 103</i>		X
<i>Frank Felton</i>	<i>Helena</i>	<i>Self</i>		X
<i>Carroll Smith</i>	<i>"</i>	<i>Dep. of Inst.</i>		
<i>Tom Yuhac</i>	<i>Helena</i>	<i>Montana Signworkers</i>		X
<i>Barry Smith</i>	<i>Helena</i>	<i>Montana Signworkers</i>		X
<i>Don Judge</i>	<i>Helena</i>	<i>MT. STATE AFL-CIO</i>		X
<i>Bill Roberts</i>	<i>Helena</i>	<i>Carpenter's Local 153</i>		X

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

January 25,

83

19.....

SPEAKER:

MR.

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

HOUSE

270

having had under consideration Bill No.

First

reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHO IS TEMPORARILY TOTALLY DISABLED UNDER WORKERS' COMPENSATION LAWS TO USE WAGE CREDITS FROM EMPLOYMENT PRIOR TO THE DISABILITY FOR PURPOSES OF UNEMPLOYMENT BENEFITS; AMENDING SECTION 39-51-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

HOUSE

270

Respectfully report as follows: That Bill No.

DO PASS

STANDING COMMITTEE REPORT

1/31

83

19

MR. **SPEAKER:**

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

having had under consideration **HOUSE** Bill No. **271**

First reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MANUFACTURE OF CERTAIN SIGNS IN INSTITUTIONS; FORBIDDING ANY FUTURE COLLECTIVE BARGAINING CONTRACT FROM RESTRICTING SIGN MANUFACTURE; REQUIRING STATE AGENCIES TO PROCURE SIGNS FROM INSTITUTIONS, WITH CERTAIN EXCEPTIONS; TRANSFERRING ALL SIGN MANUFACTURING EQUIPMENT TO THE DEPARTMENT OF INSTITUTIONS; AMENDING SECTION 53-1-301, MCA; AND PROVIDING EFFECTIVE DATES."

Respectfully report as follows: That **HOUSE** Bill No. **271**

DO NOT PASS

XXXXXX
DO PASS

..... **MEL WILLIAMS**
Chairman.

STANDING COMMITTEE REPORT

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February 17, 1983

MR. **SPEAKER:**

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

having had under consideration **HOUSE** Bill No. **281**

First reading copy (white)

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROMOTE THE GENERAL WELFARE IN IMPLEMENTATION OF ARTICLE VIII, SECTION 2, OF THE MONTANA CONSTITUTION BY ALLOWING EMPLOYEES OF MUNICIPAL AND COUNTY GOVERNMENTS TO AGREE TO WORK MORE THAN 8 HOURS A DAY AND TO AGREE TO A 14-DAY, 80-HOUR WORK PERIOD AND BY ALLOWING FIRE DEPARTMENT EMPLOYEES TO WORK A MUTUALLY AGREEABLE WORKDAY OR SHIFT AND WORK PERIOD; AMENDING SECTIONS 7-33-4126, 39-3-406, AND 39-4-107, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **281**

be amended as follows:

1. Title, lines 8, 9, and 10.
Strike: "AND BY ALLOWING FIRE DEPARTMENT EMPLOYEES TO WORK A MUTUALLY AGREEABLE WORKDAY OR SHIFT AND WORK PERIOD"
2. Title, line 11.
Strike: "7-33-4126,"
Following: "39-3-406"
Strike: ",,"
3. Page 1, line 14 through line 5 on page 2.
Strike: section 1 in its entirety
Re-number: following sections

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~~DO PASS~~

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4. Page 6, line 16 through line 25.

Strike: subsection (n) in its entirety

Insert: "(n) an employee of a municipal or county government who is working under a work period not exceeding 40 hours in a 7-day period established through

(i) a collective bargaining agreement when a collective bargaining unit represents the employee; or

(ii) by mutual agreement of the employer and employee where no bargaining unit is recognized.

Employment in excess of 40 hours in a 7-day, 40-hour work period must be compensated at a rate of not less than 1 1/2 times the hourly wage rate for the employee."

5. Page 7, line 19.

Strike: "(2) through"

Insert: "(3) and"

6. Page 7, lines 22 and 23.

Strike: "unless a different work period is agreed to under subsection (4)"

7. Page 8, lines 14 through 19.

Following: "agree"

Strike: the remainder of line 14 through "shift" on line 19

Insert: "to a workday of more than 8 hours and to a 7-day, 40-hour work period: (i) through a collective bargaining agreement when a collective bargaining unit represents the employee; or (ii) by the mutual agreement of the employer and employee where no bargaining unit is recognized."

**AND AS AMENDED
DO PASS**