

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

January 20, 1983

The meeting of the Labor Committee was called to order by Chairman Gary Aklestad on January 20, 1983, at 1:00 p.m. in Room 404, State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF SENATE BILL NO. 133: Chairman Aklestad introduced Senator Lynch, sponsor of Senate Bill No. 133, to the Committee, and Senator Lynch explained the bill to the Committee.

Senate Bill No. 133 is an act to eliminate special penalty provisions for certain violations of plumbing laws and to instead provide that those misdemeanor violations be punished as provided in 46-18-212, MCA.

Senator Lynch stated that the intent of the bill is to conform plumbing penalties with the other crafts.

PROPOSERS OF SENATE BILL NO. 133:

Mitch Mihailovich, representing the State Plumbing Board, stated that they were in support of Senate Bill 133. Mr. Mihailovich referred to a written list of licensing board penalties for some violations and left a copy for reference by the Committee.
(Exhibit No. 1)

Mr. Mihailovich stated they were merely trying to be in conformity with the other boards.

OPPOSERS OF SENATE BILL NO. 133: None were present at the hearing.

QUESTIONS FROM THE COMMITTEE ON SENATE BILL NO. 133:

Senator Blaylock asked about the intent of the bill.

Senator Lynch responded that there is a change in the misdemeanor penalty to that provided in 46-18-212, MCA.

Senator Aklestad asked what misdemeanors they were talking about.

Mr. Mihailovich stated they just want clarification of the law. They are talking about people working at the trade who are unlicensed plumbers.

Mr. Mihailovich responded that it could apply to both licensed and unlicensed.

Senator Gage asked if it was necessary to be licensed to open a plumbing shop.

Mr. Mihailovich stated that it was.

Senator Lynch stated that the bill is written exactly as it was intended. The language in the bill is correct.

Senator Gage asked what constituted a court of competent jurisdiction.

Staff Attorney, John MacMaster, stated that he did not think they would have to have a reference to a court of competent jurisdiction in the bill.

Senator Lynch stated that there is no change at all in the present law.

It was decided that Senator Lynch would work with Mr. MacMaster on language clarification in the bill and they would get back to the Committee.

Chairman Aklestad called the hearing closed on Senate Bill No. 133.

CONSIDERATION OF SENATE BILL NO. 143: Chairman Aklestad introduced Senator Ochsner, sponsor of Senate Bill No. 143, to the Committee, and Senator Ochsner explained the bill to the Committee.

Senate Bill No. 143 is an act to promote the general welfare in implementation of Article XII, Section 2 of the Montana constitution by allowing employees of hospitals and establishments caring for the sick, disabled, aged, or mentally ill or defective to agree to work more than 8 hours a day and to agree to a 14-day, 80-hour work period.

PROPOSERS OF SENATE BILL NO. 143:

Chad Smith, representing Montana Hospital Association, stated they are in support of the bill.

Mr. Smith stated that the only hospitals that will be covered by this particular bill are those of the public hospital district or county hospitals. Federal hospitals will not be affected by this bill because they are protected by the federal law.

Mr. Smith further stated that the imposition of a work schedule is not possible without the agreement of the employee--the idea being to benefit both employer and the employee.

The bill also gives the employee more flexibility in his schedule.

Milton E. Bengé from Miles City, Montana, representing Custer County Rest Home at Miles City, stated that they are in support of Senate Bill 143. Mr. Bengé's testimony is attached. (Exhibit No. 2).

Rose Skoog, representing Montana Health Care Association, stated they are in support of Senate Bill No. 143.

Wade Wilkison, representing LISCA, stated they support Senate Bill No. 143, and they feel that people in rural areas need access to services.

OPPONENTS OF SENATE BILL NO. 143:

Eileen Robbins, representing Montana Nurses' Association, spoke in opposition to Senate Bill 143. Miss Robbins stated that they feel this legislation is unnecessary, and they feel this bill would adversely affect the older employee and can be used to make people work 10 or more hours a shift and that is not safe. Miss Robbins testimony is attached. (Exhibit No. 3)

Joe Rossman of Billings, representing the Teamsters Union, stated they oppose Senate Bill 143. They feel this bill is not good for the older employee because they cannot work a long working day. He further stated that he does not think scheduling is a big problem.

Dick Kane, representing the Labor Standards Division, stated they neither support nor oppose the bill. He stated that the present Montana law does not provide for overtime after 8 hours. Overtime is required only after 40 hours in a work week.

QUESTIONS FROM THE COMMITTEE ON SENATE BILL NO. 143:

The Committee questioned some of the proponents and opponents of Senate Bill 143 regarding the work week and scheduling, especially in regard to shifts of over 8 hours, the safety factor involved in employees being overtired. The Committee also discussed unfair labor practice remedies if employer forces a 10 or more hour workday.

Chairman Aklestad called the hearing closed on Senate Bill No. 143.

ACTION ON SENATE BILL NO. 81:

Senator Lynch moved that Senate Bill No. 81 Do Pass. Senator Manning seconded the motion.

The Committee voted unanimously by voice vote that SENATE BILL NO. 81 DO PASS.

ACTION ON SENATE BILL NO. 88:

Senator Lynch moved that Senate Bill No. 88 Do Pass. The Committee voted 7-1 by voice vote that SENATE BILL NO. 88 DO PASS. Senator Goodover voted "no".

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 2:15 p.m.



Senator Gary C. Aklestad, Chairman

mn

ROLL CALL

LABOR

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/20/83

[illegible]

STANDING COMMITTEE REPORT

January 20, 19 83

MR. **PRESIDENT:**

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

having had under consideration **SENATE** Bill No. **81**

Respectfully report as follows: That **SENATE** Bill No. **81**

DO PASS

M

STANDING COMMITTEE REPORT

January 20, 1983

PRESIDENT:

MR.

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration SENATE Bill No. 88

Respectfully report as follows: That SENATE Bill No. 88

DO PASS

LICENSING BOARDS' PENALTIES

Medical Examiners
Podiatrists \$250 to \$1,000 fine and/or
Osteopaths 90 days to 1 year jail sentence
Physicians Assistants

Dentistry \$50 to \$200 fine
and/or 6 months jail (not to exceed 6 months)

Pharmacists \$250 each violation

Nursing \$100 first offense, \$300 for each subsequent
offense and/or not more than 6 months
jail sentence

46-18-212
* Electricians Fine not to exceed \$500
Water Well contractors and/or jail sentence not
Sanitarians to exceed 6 months
Private Investigators
Speech pathologists & audiologists
Nursing Home administrators
Acupuncture
Psychologists

Optometrists fine \$200 to \$500
and/or jail sentence not to exceed
6 months

Physical Therapy Fine \$50 to \$500 and/or jail
sentence 30 to 60 days

Chiropractors fine \$100 to \$700 and/or 30 days
to 7 months

Radiologic Technologists
& Landscape Architects \$500 each offense

Hearing Aid Dispensers Maximum of \$500 fine and/or
maximum of 90 days in jail

Architects Fine \$200 to \$500 and/or 30 to 60 day jail
sentence for first offense, each thereafter
results in penalty of both fine and jail sentence

Veterinarians Fine \$200 to \$500 and/or jail 30 to 60 days

Public Accountants,
Morticians
Costmetologists only state misdemeanor penalty

Barbers fine \$25 to \$200 and/or jail sentence
10 to 90 days

Real estate \$100 to \$500 and/or 90 days maximum for first offense
each offense thereafter \$500 to \$2,000 and/or
jail sentence not to exceed 6 months

Plumbers \$10 to \$100 per offense

THIS STATEMENT IN SUPPORT OF SENATE BILL # 143

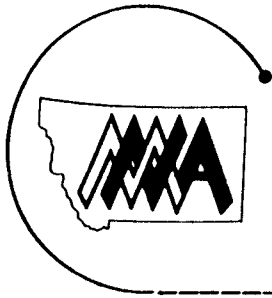
I am Milton E. Bengé, Assistant Administrator at Custer County Rest Home, located at Miles City. Custer County Rest Home is a complete nursing home owned and operated by Custer County providing both skilled and intermediate nursing home care. It is licensed by the Montana State Department of Health and Environmental Sciences to provide long term care as needed for 121 residents. We believe amending sections 39-3-406 and 39-4-107 as indicated by Senate Bill # 143 should be approved.

Health care facilities that are required to staff 7 days per week and 24 hours per day have a problem in maintaining a full time employee working 40 hours per week in a manner that is fair to all employees. Most employees want a Saturday and Sunday off together at least part of the time. With Sunday at one end of the calendar week and Saturday at the other, it is almost impossible to staff all full time employees to include some week-ends off and limit them to 40 hours per week so as not to pay some overtime. When we establish our expense budget it is computed at a regular rate of pay. The only way that we can overcome this is to declare our work week beginning on Monday and ending on Sunday. This tends to cause some degree of confusion and misunderstanding. Bookkeeping, records, and almost everything is normally geared to the calendar week.

Senate Bill # 143 provides a workable alternative to this, giving the employee the protection needed as well as the benefits deserved while letting the employer schedule staff to every ones gain.

Working more than 8 hours per day has also gained some popularity in health care facilities as long as they also are limited to 80 hours in a 14 day period. This is not top priority with our facility at this time but we would support this portion of Senate Bill # 143 as it may be beneficial at some later date when recruiting the proper staff to provide adequate long term care.

Milton E. Benze



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

TESTIMONY SB 143

The Montana Nurses' Association opposes this bill which would allow for the extension of the eight hour work day. The legislation is entirely unnecessary.

Presently, employees and employers may mutually agree to a longer work day and the 80 hour work period through the collective bargaining process. A work day in excess of eight hours must not become a legislative directive, encouraging employers to require a longer workday as a condition of employment at the time of hire. If this legislation is passed, the hard fought for eight hour work day will certainly be eroded.

The eight hour work day is the solution to over-worked employees and excessive overtime. It is the incentive to provide more jobs to more people at no additional cost, in lieu of overtime. At a time when so many people are out of work, this legislation could in fact increase unemployment. If employees are required to work over eight hours, either overtime must be paid or additional employees hired to perform the work!

MNA also feels that this bill may adversely affect the older employee who may be physically unable to compete with a younger counterpart for a longer than eight hour workday. Nurses and other health care workers are already under a great deal of stress in the workplace, longer hours would only add to it at no advantage to the consumer.

Respectfully submitted,

Eileen Robbins

NAME: Mitch Mikhaelovich DATE: 1-20-83

ADDRESS: 1900 E 4th

PHONE: 782-1944

REPRESENTING WHOM? State Pkg Board

APPEARING ON WHICH PROPOSAL: SB 133

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: State Pkg Board wishes to

eliminate the penalty to conform
with the other Boards.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: CHAD SMITH

DATE: 1-20-83

ADDRESS: Box 604 HELIXA

PHONE: 442-2710

REPRESENTING WHOM? MONT HOSP ASSN

APPEARING ON WHICH PROPOSAL: _____

DO YOU:

SUPPORT?

AMEND? _____

OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: MILTON E. BENGE DATE: 1-20-83

ADDRESS: 511 S. COTTAGE MILES CITY

PHONE: 232-3453

REPRESENTING WHOM? CUSTER COUNTY REST HOME

APPEARING ON WHICH PROPOSAL: S.B. # 143

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE :

ADDRESS:

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Dick Kane DATE: 1/29/88

ADDRESS: Old Basil of Health Bld

PHONE: 449- 5600

REPRESENTING WHOM? Labor Standards Div

APPEARING ON WHICH PROPOSAL: SB - 143

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

COMMENTS: The present Montana law does not provide for overtime after 8 hours. Overtime is required only after 40 hours in a work week.

The federal Fair Labor Standards Act does have a provision that allows hospitals and some other health care facilities to use a 14 day work period. Overtime must be paid for hours in excess of 8 each day and 80 in each work period.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.