

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

March 15, 1983

The meeting of the Labor Committee was called to order by Chairman Gary C. Aklestad on March 15, 1983, at 1:00 p.m. in Room 404, State Capitol.

ROLL CALL: All members of the Committee were present.

CONSIDERATION OF HOUSE BILL NO. 455:

Chairman Aklestad introduced Representative Robert Dozier who presented House Bill No. 455 to the Committee in the absence of Representative Jerry Driscoll, the bill's sponsor.

House Bill No. 455 is an act to increase the age limit for purposes of the child services exclusion from the definition of employment in the unemployment compensation law.

Representative Dozier stated that the passage of this bill would put the state in compliance with the federal law.

PROPOSERS OF HOUSE BILL NO. 455:

Harold Kansier, representing the Department of Labor, stated that they support House Bill No. 455.

OPPOSERS OF HOUSE BILL NO. 455: None were present at the hearing.

There were no questions from the Committee.

If House Bill No. 455 passes Committee, Senator Lynch will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL NO. 390:

Chairman Aklestad introduced Representative Addy, sponsor of House Bill No. 390, to the Committee, and Representative Addy presented the bill to the Committee.

House Bill No. 390 is an act to define unfair labor practices by health care facilities and labor organizations representing nurses; to establish procedures for adjudicating unfair labor practices charges; and to resolve appropriate unit and representation questions consistent with the public employees collective bargaining provisions.

Representative Addy stated that this bill is a product of the Personnel Study Commission.

PROPOSERS OF HOUSE BILL NO. 390:

Judy Olson, representing the Montana Nurses' Association, stated that they support House Bill No. 390 and agreed to the changes in the bill.

Joyce Brown, representing the Personnel and Labor Relations Study Commission, stated that they support House Bill 390. J. Brown's printed testimony is attached. (Exhibit No. 1)

Chad Smith, representing the Montana Hospital Association, stated that they would support House Bill 390 with the following amendment.

Page 6, line 16.

Strike: "at state or local levels"

OPPOSERS OF HOUSE BILL NO. 390: None were present at the hearing.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL NO. 390:

Senator Lynch asked Representative Addy about language in the amendment submitted by Chad Smith.

Representative Addy stated that he had no fault with it.

Judy Olson stated that the language in the amendment was agreeable with the Montana Nurses' Association.

Senator Keating: Do any sections of the bill broaden rulemaking authority?

Representative Addy: No. This question came up in the House Committee and was answered in the negative.

Chairman Aklestad called the hearing on House Bill No. 390 closed.

CONSIDERATION OF HOUSE BILL NO. 384:

Chairman Aklestad introduced Representative Joe Hammond, sponsor of House Bill No. 384, to the Committee, and Representative Hammond presented the bill to the Committee.

House Bill No. 384 is an act revising the Restaurant, Bar, and Tavern Wage Protection Act to require the bonding of all restaurants, bars, and taverns; allowing the Commissioner of Labor and Industry to waive the bonding requirement; providing a grandfather clause.

PROPOSERS OF HOUSE BILL NO. 384:

David Hunter, Commissioner of Labor, stated that they are in support of House Bill No. 384, and Mr. Hunter further explained the bill to the Committee.

Mr. Hunter stated that they think this bill would give them better compliance.

Mr. Hunter further stated that the bill does the following:

- 1) Broadens the base of people who are covered.
- 2) Time is limited.
- 3) Requires bond for the first three years of operation.
- 4) Gives the Commissioner power to require bonds after three years for problem employers.

Mr. Hunter also thinks the bill gives workers better protection.

Mr. Hunter stated that it allows the Department to target staff time and efforts to those restaurants and taverns that may require bonds.

Seymour Flanagan, representing Hotel and Restaurant Employees' International Union, stated they support House Bill 384 because it protects the employees. Mr. Flanagan's printed testimony is attached. (Exhibit No. 2)

Martin Quick, representing Local 101, stated they support House Bill 384.

Margaret Flanagan, representing the Hotel and Restaurant Employees' and Bartenders' Local #533, stated that they support House Bill 384.

Stacy Flaherty, representing the Women's Lobbyist Fund, stated that they support House Bill 384.

Jim Murry, representing Montana State AFL-CIO, stated that they support House Bill 384. Mr. Murry's printed testimony is attached. (Exhibit No. 3)

Dick Kane, representing the Labor Standards Division, stated that they support House Bill 384.

OPPONENTS OF HOUSE BILL NO. 384: None were present at the hearing.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL NO. 384:

Senator Blaylock: Do they ever collect on the bonds?

Dave Hunter: Yes, they do. They have had good success in collecting on the bonds.

This bill grandfathers everyone who has been in operation for three years. They would not have to have a bond.

Senator Goodover asked Phil Strobe about the taverns.

Mr. Strobe stated that they support the concept of the bill. They feel the three-year requirement is fairly reasonable.

Senator Keating asked Dave Hunter about tavern businesses that changed hands.

Mr. Hunter stated that the new owner would have to have a bond.

Chairman Aklestad: The law presently covers only lessees?

Dave Hunter: Yes. They have to carry the bond forever.

Senator Dave Fuller will carry House Bill 384 on the floor if the bill passes Committee.

Chairman Aklestad called the hearing closed on House Bill No. 384.

ACTION ON HOUSE BILL NO. 300:

No action was taken at this meeting. Chairman Aklestad wants to look into additional information on the bill.

ACTION ON HOUSE BILL NO. 301:

Senator Lynch moved that House Bill No. 301 Be Concurred In.

On a Roll Call Vote the Committee voted unanimously that HOUSE BILL NO. 301 BE CONCURRED IN. The Roll Call Vote is attached.

Senator Manning will carry House Bill No. 301 on the floor.

ACTION ON HOUSE BILL NO. 525:

Senator Keating moved that the proposed amendments be adopted. On a voice vote, the Committee voted 5-3 to adopt the amendments to House Bill No. 525. Senators Manning, Lynch, and Blaylock voted "no".

Senator Keating moved that House Bill No. 525 Be Concurred In as Amended.

On a Roll Call Vote, the Committee voted 7-1 that HOUSE BILL NO. 525 BE CONCURRED IN AS AMENDED. The Roll Call Vote is attached.

ACTION ON HOUSE BILL NO. 302:

Senator Lynch moved that House Bill No. 302 Be Concurred In with the understanding that "employees" would be changed to "employers" on page 1, line 20 as a clerical amendment.

Labor & Employment Relations

March 15, 1983

Page 5

On a voice vote, the Committee voted 7-1 that HOUSE BILL NO. 302
BE CONCURRED IN. Senator Keating voted "no".

Senator Gage will carry House Bill No. 302 on the floor.

ADJOURN: There being no further business before the Committee,
the meeting was adjourned at 2:30 p.m.



Senator Gary C. Aklestad, Chairman

mln

STANDING COMMITTEE REPORT

March 15, 1983

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 301

Harper (Manning)

Respectfully report as follows: That HOUSE Bill No. 301

BE CONCURRED IN

~~XXXXX~~

STANDING COMMITTEE REPORT

March 15, 19 83

MR. PRESIDENT:

We, your committee on LABOR & EMPLOYMENT RELATIONS

having had under consideration HOUSE Bill No. 302

Harper (Gage)

Respectfully report as follows: That HOUSE Bill No. 302

BE CONCURRED IN
XXXXXX

STANDING COMMITTEE REPORT

March 15, 19 83

MR. **PRESIDENT:**

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

having had under consideration **HOUSE** Bill No. **525**

Darko (Christiaens)

Respectfully report as follows: That **HOUSE** Bill No. **525**

third reading, be amended as follows:

1. Page 1, line 19.
Following: "or"
Strike: "a bona fide"
2. Page 1, line 20.
Following: "if the"
Insert: "agreement,"
3. Page 1, line 22.
Following: "However, no"
Insert: "collective bargaining agreement,"

DOXKAS

(Continued)

4. Page 1, line 24.

Following: "age"

Strike: "."

Insert: ", unless the employee has either attained 70 years of age, or has attained 65 years of age and has for the 2 year period immediately prior to retirement been employed in an executive or high policy making position and is entitled to an immediate and nonforfeitable annual retirement benefit from a pension, profit sharing, savings, or deferred compensation plan of an employer, or any combination of such benefits, of at least \$27,000 a year."

And, as so amended
BE CONCURRED IN

HC

SENATE COMMITTEE LABOR

Date 3/15/83 House Bill No. 301 Time 1:55

NAME	YES	NO
TOM KEATING, VICE-CHAIRMAN	✓	
JACK GALT	✓	
PAT GOODOVER	✓	
DELWYN GAGE	✓	
CHET BLAYLOCK	✓	
JOHN LYNCH	✓	
DICK MANNING	✓	
GARY AKLESTAD, CHAIRMAN	✓	

Marjorie Nichols
Secretary

Gary C. Aklestad
Chairman *mn*

Motion: Senator Lynch moved that House Bill # 301
Be Concurred In.

(Senator Manning will carry on the floor)
Motion carried by unanimous vote.

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

SENATE COMMITTEE LABOR

Date 3/15/83 House Bill No. 525 Time 2:25

NAME	YES	NO
TOM KEATING, VICE-CHAIRMAN	✓	
JACK GALT	✓	
PAT GOODOVER	✓	
DELWYN GAGE	✓	
CHET BLAYLOCK	✓	
JOHN LYNCH	✓	
DICK MANNING	✓	
GARY AKLESTAD, CHAIRMAN		✓

Marjorie Nichols
Secretary

Gary C. Aklestad
Chairman *mn*

Motion: Senator Keating moved that House Bill
No. 525 Be Concurred in as amended.

Motion carried 7-1. (Sen. Christensen will carry on floor.)

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

TESTIMONY ON HB 390 by Joyce Brown,
Project Director of the Personnel and
Labor Relations Study Commission
before the Senate Labor Committee, 3-15-83

Mr. Chairman, members of the Committee. HB390 is another Personnel and Labor Relations Study Commission bill which has received unanimous support by all affected parties including the Hospital Association and Nurses Association.

HB390 amends the Collective Bargaining for Nurses Act (CBNA) to make the language and procedures established by that act more consistent with the language and procedures of the other major collective bargaining statute - the Collective Bargaining for Public Employees Act (CBPEA).

The Collective Bargaining for Nurses Act serves the same purpose as the Collective Bargaining for Public Employees Act -- to establish statutory collective bargaining -- but since it predated the CBPEA it contains inconsistent provisions or lacks provisions of the more comprehensive CBPEA. These inconsistencies create unnecessary confusion, especially with respect to public sector LPN's who appear to be covered by both acts.

HB390 corrects many of the inconsistencies by providing that unfair labor practice proceedings and representation questions involving nurses under the CBNA will be handled by the Board of Personnel Appeals (BPA) in the same manner as for other public employees under the CBPEA. Since the BPA had not yet been formed when the CBNA was enacted administrative responsibility was given to the Department of Labor and Industry rather than to the BPA. The Department of Labor and Industry has since delegated that responsibility to the attached BPA. HB390 places administrative responsibility with the BPA reflecting current practice and gives it the authority needed to carry out that function.

HB390 also adds to the CBNA the list of prohibited practices (unfair labor practices) by labor organizations which are in the CBPEA. The CBNA currently specifies only unfair labor practices for employers and none for collective bargaining organizations.

The Study Commission feels that these changes made by HB390 will correct most of the inconsistencies between the two major collective bargaining statutes and contribute to a more efficient administrative process.

TESTIMONY OF: SEYMOUR J. FLANAGAN ON HOUSE BILL 384, BEFORE THE SENATE LABOR
AND EMPLOYMENT RELATIONS COMMITTEE.
MARCH 15, 1983

I am Seymour J. Flanagan, International Organizer for the Hotel Employees and Restaurant Employees International Union AFL CIO . I am here to testify in support of House Bill 384, a bill which amends the current restaurant, bar and tavern wage protective act.

The current law requires that anyone not owning the building in which he operates a bar, restaurant or tavern must post a bond with the Commissioner of Labor and Industry equal to at least double the amount of the amount of the projected semi-monthly payroll. This law was enacted to provide wage protection to employees who work in these businesses. The failure rate in the Bar and Restaurant business is high, and employees sometimes find themselves without the wages which they have earned when the business goes broke. Our Union has always been in strong support of the wage protection act.

The problem we had with the act was that we felt it needed better enforcement. I would like to take this opportunity to commend the Commissioner of Labor and his staff for their successful efforts in improving enforcement. In January of 1981, only 132 businesses had posted the required bond. Right now, almost 400 businesses have posted the bond. That is a significant improvement.

The new bill amends that law so that anyone operating a bar, restaurant or tavern, must post the bond, but the Commissioner may waive the bond requirement after three years, just so long as the employer is in compliance with other provisions of the Fair Labor Standards Act. This amendment makes good sense to us. The three year period is a pretty good indication of whether or not the business is going to succeed, and whether or not the employer is making every effort to comply with the Fair Labor Standards Act. The Wage Protection Act was never intended to punish fair employers who were successful in their businesses. It was intended to protect the wages of some of the lowest paid employees in the state. This amendment puts all employers on an equal footing to post the bond, but also allows the waiver after three years for fair and successful employers.

This amendment was supported in a convention resolution by the State Convention of the Montana State Council of Hotel Employees and Restaurant Employees AFL CIO and subsequently by the Montana State AFL CIO Convention. It protects employees and it is fair to employers.

In closing, I urge your support for House Bill 384, to ensure wage Protection to employees who work in one of the lowest paid industries in the nation.

Thank you.



Exhibit No. 3
Submitted by Jim Murry
March 15, 1983

JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

TESTIMONY OF JIM MURRY BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS
COMMITTEE ON HOUSE BILL 384, MARCH 15, 1983

Mr. Chairman, members of the committee; my name is Jim Murry and I'm here today representing the Montana State AFL-CIO. The Montana State AFL-CIO supports House Bill 384, which revises the Restaurant, Bar and Tavern Wage Protection Act to allow the Commissioner of Labor and Industry to waive the bonding requirement for these businesses after the first three years of operation. The bill also provides that the business must be in compliance with other provisions of the Fair Labor Standards Act, in order to qualify for the waiver.

Policies and positions of the Montana State AFL-CIO are set by elected delegates of the Montana State AFL-CIO Annual Convention, by democratic process. In 1982, a resolution supporting this amendment to the Wage Protection Act was submitted by the State Convention of the Montana State Council of Hotel Employees and Restaurant Employees, AFL-CIO, and the convention voted concurrence.

The resolution points out that there have been considerable enforcement problems with the amended Restaurant, Bar and Tavern Wage Protection Act. We believe this bill will make the act more enforceable and will provide an incentive to employers to comply with all provisions of the Fair Labor Standards Act in order to qualify for the bond waiver. The Act will still protect hotel and restaurant employees who work in low-paying jobs, in an industry which experiences a high rate of business failure.

We would not support any measure which would weaken this essential wage protection, but since most failures occur in the first three years of business, and the bonding requirement for that period is now extended to all bar and restaurant employers, this is a reasonable revision of the Act.

We ask your support of House Bill 384.

Thank you.

(This sheet to be used by those testifying on a bill.)

NAME: Harold V Kansier DATE: 3/15/83

ADDRESS: Helena

PHONE: # 49-2723

REPRESENTING WHOM? Dept of Labor

APPEARING ON WHICH PROPOSAL: # 455

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Ray Brown DATE: 3-15-83

ADDRESS: Mitchell Building

PHONE: 449-3811

REPRESENTING WHOM? Personal & Labor Rel. Study Comm

APPEARING ON WHICH PROPOSAL: H.R. 390

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

COMMENTS: See attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: CNAD SMITH DATE: 3-15-83

ADDRESS: Box 604

PHONE: 442-2980

REPRESENTING WHOM? Mount Hospital Ass'n

APPEARING ON WHICH PROPOSAL: HB 390

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

COMMENTS: _____

amend on page 6 line 16 by deleting the words "at
state or local levels."

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: David Hunter DATE: 3/15/83

ADDRESS: Capitol Station Helena

PHONE: 449 - 3661

REPRESENTING WHOM? Dept of Labor

APPEARING ON WHICH PROPOSAL: JB 384

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Seamus Flanagan DATE: 3.15.83

ADDRESS: 1616 Cannon Apt 22, Helena, Mt.

PHONE: 442-3727

REPRESENTING WHOM? NE+RC Int Union

APPEARING ON WHICH PROPOSAL: 384

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: I support this because it
protects the employees in the
Hotel Rest + Bar Establishments

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Martin R. Ruick DATE: 3-15-83

ADDRESS: 222 24th St S.W., Prescott Falls,

PHONE: 452-1965

REPRESENTING WHOM? LOCAL 101

APPEARING ON WHICH PROPOSAL: 384

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

COMMENTS: We at the local feel it is important
to have the protection for our people
in the Trade.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Margaret Flanagan DATE: 3-15-83

ADDRESS: 1616 Cannon apt 22

PHONE: 442-3727

REPRESENTING WHOM? Hotel & Restaurant Emp. & Bartender Local 533

APPEARING ON WHICH PROPOSAL: House Bill 384

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

COMMENTS: I feel this bill is needed in
our industry

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Stacy Flaherty DATE: 3-15-83

ADDRESS: P.O. Box 1099

PHONE: 449-7917

REPRESENTING WHOM? Women's Lobbyist Fund

APPEARING ON WHICH PROPOSAL: HB 384

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: The Women's Lobbyist Fund
supports HB 384

This bill particularly affects
women who make up over half of the
restaurant's servers. They are most
often employed in establishments
affected by restaurant bonding.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Jane Mary DATE: 3/15/83

NAME: _____
ADDRESS: P.O. Box 1176 Hekima, Maurit.

PHONE: 442-1708

REPRESENTING WHOM? Mont. AFL-CIO

APPEARING ON WHICH PROPOSAL: 1413 384

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

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Dick Kane DATE: 3/15

ADDRESS: Helena

PHONE: 449-5600

REPRESENTING WHOM? Labor Standards Div

APPEARING ON WHICH PROPOSAL: HB-384

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.