

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 10, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich on January 10, 1985 at 9:00 a.m. in Room 312-2 of the State Capitol building.

ROLL CALL: All members were present with the exception of Representative Robert Ellerd who was excused by the Chairman.

HOUSE BILL NO. 90: Hearing commenced on House Bill No. 90. Representative Raymond Harbin, District #53, sponsor of the bill, stated that the purpose of this bill is to amend the Unemployment Insurance Law to exclude officers of a corporation, sole proprietors and working partners from the definition of employment. Contributions under the unemployment insurance law are paid by the employer with respect to wages paid for employment. Rep. Harbin added that it is unfair for small business' to pay unemployment tax when they rarely would be entitled to draw from the unemployment fund. Rep. Harbin then distributed to committee members, Exhibit 1, which he feels further clarifies the term "employment".

Opponent David E. Wanzenried, Commissioner of the Montana Department of Labor and Industry, explained that the department does not in fact oppose the bill, yet wanted to offer further information pertaining to HB 90. Mr. Wanzenried then passed out, Exhibit 2 to committee members. This Fact Sheet shows an example of how HB 90 would effect tax liability. He explained that an officer of a corporation is eligible to receive unemployment benefits if the corporation goes bankrupt, is laid off and in other particular instances.

Opponent George Allen with the Montana Retail Association, stated that he was not in direct opposition of HB 90. He suggested to committee members that another approach to this bill, would be to give an option to corporate officers. If they wish to participate in the unemployment insurance tax, they may, but it would not be mandatory.

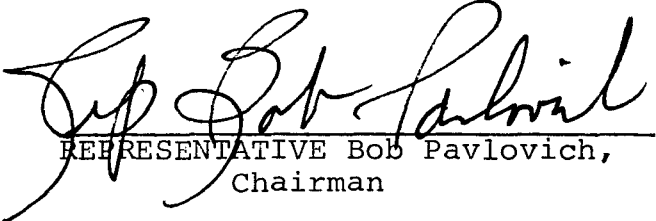
In closing, Representative Harbin suggested that HB 90, be tabled.

Several questions were raised by committee members. A number of hypothetical situations were discussed to further explain the impact of HB 90. Chairman Pavlovich suggested to Rep. Harbin that the committee sit on this bill for a week of so rather than table HB 90.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 90 was closed.

ACTION ON HOUSE BILL NO. 41: Representative Bachini made a motion that HB 41 be transferred to the taxation committee, as recommended by Representative Hannah. Rep. Bachini then withdrew his motion. Representative Kadas made a motion that HB 41 DO NOT PASS. The motion was seconded by Representative Hansen. Representative Kitselman suggested that this bill be discussed further amongst committee members. Discussion continued with Representative Schultz making a substitute motion that HB 41 DO PASS. Further discussion occurred resulting in the chairman calling for a roll call vote on Representative Schultz's motion that HB 41 DO PASS. The roll call vote resulted in 9 members voting aye and 9 members voting nay. House Bill 41 will enter the floor WITHOUT RECOMMENDATION. Representative Kadas then made a motion that HB 41 be moved to the taxation committee. The roll call vote resulted in 14 members voting nay and 4 members voting aye.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 10:22 a.m.


REPRESENTATIVE Bob Pavlovich,
Chairman

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 10, 1985

| NAME | PRESENT | ABSENT | EXCUSED |
|--------------------|---------|--------|---------|
| Bob Pavlovich | ✓ | | |
| Les Kitselman | ✓ | | |
| Bob Bachini | ✓ | | |
| Ray Brandewie | ✓ | | |
| Jan Brown | ✓ | | |
| Jerry Driscoll | ✓ | | |
| Robert Ellerd | | | ✓ |
| William Glaser | ✓ | | |
| Stella Jean Hansen | ✓ | | |
| Marjorie Hart | ✓ | | |
| Ramona Howe | ✓ | | |
| Tom Jones | ✓ | | |
| Mike Kadas | ✓ | | |
| Vernon Keller | ✓ | | |
| Lloyd McCormich | ✓ | | |
| Jerry Nisbet | ✓ | | |
| James Schultz | ✓ | | |
| Bruce Simon | ✓ | | |
| Fred Thomas | ✓ | | |
| Norm Wallin | ✓ | | |
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STANDING COMMITTEE REPORT

January 10

19 85

SPEAKER

MR.

BUSINESS AND LABOR

We, your committee on

HOUSE

having had under consideration Bill No. **41**

FIRST

WHITE

reading copy (_____)
color

TO REPEAL THE REALTY TRANSFER ACT

HOUSE

Respectfully report as follows: That Bill No. **41**

WITHOUT RECOMMENDATION

~~DO PASS~~

.....
Chairman.

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE January 10, 1985 BILL NO. 41 TIME 10:15 am

| NAME | AYE | NAY |
|--------------------|-----|-----|
| Bob Pavlovich | | ✓ |
| Les Kitselman | ✓ | |
| Bob Bachini | | ✓ |
| Ray Brandewie | ✓ | |
| Jan Brown | | ✓ |
| Jerry Driscoll | | ✓ |
| Robert Ellerd | | |
| William Glaser | ✓ | |
| Stella Jean Hansen | | ✓ |
| Marjorie Hart | | ✓ |
| Ramona Howe | | ✓ |
| Tom Jones | ✓ | |
| Mike Kadas | | ✓ |
| Vernon Keller | ✓ | |
| Lloyd McCormick | | |
| Jerry Nisbet | | ✓ |
| James Schultz | ✓ | |
| Bruce Simon | ✓ | |
| Fred Thomas | ✓ | |
| Norm Wallin | ✓ | |
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Bob Pavlovich
 Chairman Bob Pavlovich

Secretary Debbie Aquilino

Motion: That House Bill No. 41 DO PASS

Schultz

Vote yes for Do Pass

Vote No for Do Not Pass

Jamari Schultz

ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE January 10, 1985 BILL NO. 41 TIME 10:20 am

| NAME | AYE | NAY |
|--------------------|-----|-----|
| Bob Pavlovich | | ✓ |
| Les Kitselman | | ✓ |
| Bob Bachini | ✓ | |
| Ray Brandewie | | ✓ |
| Jan Brown | | ✓ |
| Jerry Driscoll | ✓ | |
| Robert Ellerd | | |
| William Glaser | | ✓ |
| Stella Jean Hansen | | ✓ |
| Marjorie Hart | | ✓ |
| Ramona Howe | | ✓ |
| Tom Jones | | ✓ |
| Mike Kadas | ✓ | |
| Vernon Keller | | ✓ |
| Lloyd McCormick | | |
| Jerry Nisbet | ✓ | |
| James Schultz | | ✓ |
| Bruce Simon | | ✓ |
| Fred Thomas | | ✓ |
| Norm Wallin | | ✓ |
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Secretary Debbie Aqui

Bob Pavlovich
Chairman Bob Pavlovich

Motion: That House Bill No. 41 be moved to the taxation committee

(4) "Employment" does not include services performed as a sole proprietor, a working member of a partnership, or an officer of a corporation," providing the officer of the corporation:

- a) Owns the greatest number of shares of stock in the corporation named above.
- b) Owns the same number of shares of stock in the corporation named above as other persons own, and no other person owns a greater number of shares of stock in the corporation.
- c) Is the husband, wife, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, sister (circle one) of the individual who owns the greatest number of shares of stock in the corporation named above.
- d) Is the husband, wife, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, sister (circle one) of the individual who owns the same number of shares of stock in the corporation as other persons own, and no other person owns a greater number of shares of stock in the corporation.

DIVISION OF WORKERS' COMPENSATION
Montana Department of Labor and Industry
815 Front Street
Helena, Montana 59601

**Notice of Election by Officer of Private Corporation
Not to Be Bound as Employee Under Montana's Workers' Compensation Act**

Under Section 92-208, R.C.M. 1947, the Division of Workers' Compensation may adopt rules allowing officers of private corporations to elect not to be bound as employees under the Workers' Compensation Act. The Division has adopted rule number 24-3.18 (34)-S18200 of the Montana Administrative Code. I hereby make the following election not to be bound by the Workers' Compensation Act.

I,, have been properly designated under law as an officer of the Corporation. The title of my office in the corporation is I hereby elect, under Section 92-208, R.C.M. 1947, and under Section 24-3.18(34)-S18200 of the Montana Administrative Code, not to be bound as an employee under the Workers' Compensation Act. I make this election because I qualify under any one (1) or more of the following six (6) provisions (check the appropriate provision or provisions):

- (a) I am not engaged in performing the ordinary duties of a worker for the corporation named above, and I do not receive pay for performing the ordinary duties of a worker for that corporation.
- (b) I am engaged primarily in household employment for the corporation named above.
- (c) I own the greatest number of shares of stock in the corporation named above.
- (c) (1) I own the same number of shares of stock in the corporation named above as other persons own, and no other person owns a greater number of shares of stock in the corporation.
- (d) I am the husband, wife, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, sister (circle one) of the individual who owns the greatest number of shares of stock in the corporation named above.
- (d) (1) I am the husband, wife, child, adopted child, stepchild, mother, father, son-in-law, daughter-in-law, nephew, niece, brother, sister (circle one) of an individual who owns the same number of shares of stock in the corporation as other persons own, and no other person owns a greater number of shares of stock in the corporation.

.....
Date Signature of Officer Electing Not to be Bound

Subscribed and sworn to before me, this day of, 19.....
Notary Public for the State of Montana residing at,
Montana. My Commission expires, 19.....

(For Division Use Only) The Division of Workers' Compensation hereby approves disapproves this election.

.....
Date Approved by

(NOTICE: This election is not valid until approved by the Division of Workers' Compensation, and an officer is bound as an employee under the Workers' Compensation Act until such approval.)

FACT SHEET
House Bill 90

I. Current Law

State tax liability:

| | |
|-------------------|------------------|
| Taxable wage base | \$8,600.00 |
| Average tax rate | .031 |
| | <u>\$ 267.00</u> |

Federal tax liability:

| | |
|----------------------|-----------------|
| Taxable wage base | \$7,000.00 |
| Reduced F.U.T.A. tax | .008 |
| | <u>\$ 56.00</u> |

Total tax liability: \$323.00

II. House Bill 90

State tax liability:

-0-

Federal tax liability:

| | |
|--------------------|------------------|
| Taxable wage base | \$7,000.00 |
| Gross F.U.T.A. tax | .062 |
| | <u>\$ 434.00</u> |

Total tax liability: \$434.00

VISITORS' REGISTER

HOUSE BUSINESS AND LABOR COMMITTEE

BILL House Bill 90

Date January 10, 1985

SPONSOR Representative Harbin

| NAME | RESIDENCE | REPRESENTING | SUP- PORT | OP- POSE |
|---------------|-----------|-----------------|--------------|-------------|
| George Allen | HELENA | MT. RETAIL ASSN | | |
| FH. BUCKBOURS | HELENA | MT. CHAMBER | | |
| Larry Wainbow | Helena | MT. U. Sys. | No | position |
| John Delano | " | Mont RR Assn | | |
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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.