

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

April 16, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Tuesday, April 16, 1985 at 10:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with the exception of Reps. Grady, Hammond, Keyser, Krueger and O'Hara.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 58: Rep. Kelly Addy, House District #94, chief sponsor of HJR 58, testified. Rep. Addy pointed out that HB 918, dealing with this same area of employment relations and the conditions in which an employer may terminate an employee, died on the House Floor the 45th day of the session. He said this is a very difficult problem, and there are more than two sides to the problem. The sponsor of HB 918 had difficulty with working out specific language dealing with this particular subject. Rep. Addy feels that by having an interim committee study the statutory "hiring at will rule" and the doctrines of wrongful discharge in violation of public policy and the implied covenant of good faith and fair dealing, it will afford greater public input, and it will give the committee members more time to reflect on this one particular subject. It is a very important topic because it affects every business and every employee in the state of Montana.

LeRoy Schramm, chief legal counsel for the university system, testified as a proponent. Virtually, every employee termination results in a lawsuit, he told the committee. Part of that may be because some of the terminations are handled improperly. But an additional reason for that is because no one knows -- not even the employee or the employer -- what standards they are operating under. He thinks a study such as this is a very good idea. A lot of litigation is being encouraged in both the private and public sector which is not good for employees since they are spending money for lawyers, court costs, etc.

Dave Goss, representing the Billings Chamber of Commerce, stated his support for HJR 58. He said that the primary goal that needs to be done is to at least establish the rules under which a business and its employees are cooperating. As a result of the uncertainty of employers as to what they can and cannot do, it is having an impact on good employees as well as the bad employees.

Karl Englund, representing the Montana Trial Lawyers Association, testified in support of the resolution. He feels that this is a very important issue that affects every employee and every employer who are not covered by specific labor contracts. This issue is greatly misunderstood by both aggrieved employees and also by employers. It is an area where there is a great deal of room for employees and employers to have some common interest. He urged the committee to pass HJR 58. Mr. Englund did suggest that the committee adopt an amendment, however. He referred to page 2, line 14 of the resolution. Obviously, the intent is to look at that covenant within the context of the employment relationship. He is not sure the intent here is to have the interim committee look at the whole range of issues that are covered by "the implied covenant of good faith and fair dealing". He suggested to amend by adding language on line 14, page 2 which would read: "the modification of the "hiring at will rule" by the doctrine of implied coverage."

There being no further proponents or opponents, Rep. Addy closed. He said that the intent of the resolution is to draw the line some place by clarifying the laws so that everyone knows what his/her responsibility is as an employee and what the employer's responsibility is.

The floor was opened to questions from the committee.

Rep. Montayne said that those people who do have these types of agreements and follow them don't have any problem with them. He wondered why this study was needed then. Rep. Addy said when a person works with a company that has a grievance procedure and a collective bargaining agreement, that helps an awful lot. This would benefit the person who isn't a union employee or who works for a company without a specific procedure. Rep. Addy hopes that the interim committee study arbitration as one of the preconditions to filing a suit. He said that may be an excellent procedure to use to screen disputes.

Rep. Eudaily said the three doctrines are listed under subsection (1) of page 2. He pointed out that line 19 refers to three doctrines and line 22 refers to three doctrines, but there is no reference to these three doctrines in subsection (2). Rep. Addy agreed that reference to these doctrines be made in this subsection, also.

There being no further questions, hearing closed on HJR 58.

ACTION ON HOUSE JOINT RESOLUTION NO. 58: Rep. Gould moved that HJR 58 DO PASS. The motion was seconded by Rep. Mercer.

Rep. Addy moved to amend page 2, following line 25 by inserting "the desirability of requiring arbitration as a precondition to filing suit,". He said this language

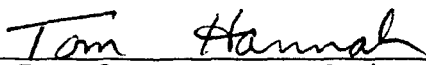
should provide sufficient direction to just about anyone. The motion was seconded by Rep. Gould and carried on a voice vote. Rep. Addy further moved to amend page 2, line 15 following "dealing" by inserting "as an exception to the "hiring at will rule"". The motion was seconded by Rep. Gould and carried unanimously.

Rep. Gould moved that HJR 58 DO PASS AS AMENDED. The motion was seconded by Rep. Darko.

Rep. Rapp-Svrcek said that Rep. Eudaily brought out a good point earlier which pertains to including the three doctrines in subsection (2). Rep. Mercer moved to amend page 2, line 17 following "states" by inserting "relevant to these three doctrines". The motion was seconded by Rep. Eudaily and carried unanimously.

Rep. Gould further moved that HJR 58 DO PASS AS AMENDED. The motion was seconded by Rep. Miles and carried with Reps. Brown and Montayne dissenting.

ADJOURN: There being no further business, the meeting adjourned at 10:35 a.m.



REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 4/16/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb			
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady		✓	
Joe Hammond		✓	
Kerry Keyser		✓	
Kurt Krueger		✓	
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara		✓	
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

STANDING COMMITTEE REPORT

April 16

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MR. ~~Speaker~~.....

We, your committee onJudiciary.....

having had under considerationHouse Joint Resolution..... BM No. 58.....

First reading copy (White)
color

INTERIM STUDY OF HIRING AT WILL RULE AND ITS RECENT EXCEPTIONS

Respectfully report as follows: That.....House Joint Resolution..... BM No. 58.....

be amended as follows:

1. Page 2, line 15.

Following: "dealing"

Insert: "as an exception to the "hiring at will" rule" "

2. Page 2, line 17.

Following: "states"

Insert: "relevant to these three doctrines"

3. Page 2, following line 25.

Insert: "the desirability of requiring arbitration as a precondition
to filing suit,"

AND AS AMENDED,

DO PASS.