

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

January 31, 1985

The seventh meeting of the Labor and Employment Committee was called to order by Chairman J. D. Lynch on January 31, 1985, at 1:05 p.m. in Room 413/415, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 137: Chairman Lynch called on Representative Jerry Driscoll, sponsor of House Bill 137. House Bill 137 is an act allowing a person who is temporarily totally disabled under the workers' compensation law to use wage credits from employment prior to the disability for purposes of unemployment insurance. This affects people who are drawing disability, are released to return to work, and have no job to return to. Prior to this law they could not draw unemployment. The problem is, a doctor could release a person to go back to work for a week or two, and if the person could not handle the job, he could then go back on disability for another six months, then later be released. The "last employment" then would be those two weeks that were worked. This is not the intent of the bill. The only change is clarification to prevent the department having to go back years and years in the records to find wage credits for these people. If the law stays the way it is, the records are lost; there is no way of finding out if the employee had any wage credits. This bill allows the Department of Labor to keep those records for 24 months from the date disability occurred.

PROPOSERS OF HOUSE BILL 137: David Wanzenried, representing Montana Department of Labor and Industry, stated they have on file workers' unemployment records up to 24 months prior to injury.
(Exhibit No. 1)

OPPOSERS OF HOUSE BILL 137: None were present.

QUESTIONS FROM THE COMMITTEE: Senator Aklestad asked Mr. Wanzenried when an employee's drawing of unemployment starts?

David Wanzenried said an employee wouldn't be able to draw unemployment insurance at the same time.

Senator Aklestad asked when an employee would be able to draw that?

Harold Kansier said an employee would be eligible when available and actively seeking work, when the doctor said he could go back to work. Then he would be eligible to draw unemployment insurance, because it would be assumed he is no longer drawing workers' compensation.

Senator Aklestad asked whether the main thrust of the bill is establishing salary at the time of the employee's main job rather than temporary job, for drawing unemployment.

Harold Kansier said that is right.

The hearing was closed on House Bill 137.

EXECUTIVE ACTION OF SENATE BILL 194: Senator Manning presented amendments.
(Exhibit No. 2)

Senator Manning made a motion to adopt the amendments.

Senator Thayer asked if this changes the fiscal note.

John MacMaster said yes, if the fiscal note is based partly on the cost of making inspections.

Senator Keating said if the fees pay for the administration of the act, it does not make any difference about the fiscal note. There shouldn't be a fiscal note, the revenues will offset the expenditures.

Senator Manning said he talked to Gary Blewett, who didn't feel it necessary to charge fees of \$100. Most people are licensed in Montana and got their license out of Washington, and if they can't pass the test, they do not get a license.

Senator Towe asked Senator Manning if there is some reason why the bill is limited to construction blasting.

Senator Manning said because the bill covers construction it does not deal with mine blasting.

Senator Manning's amendments to SB 194 on a voice vote passed unanimously.

Senator Keating said Senate Bill 194 has a statement of intent, which means there are some rule making authorities. The department gets to make the rules. He asked if Mr. Wanzenried knows how much rule making is involved..

David Wanzenried said he can't give that answer at this time.

Senator Keating presented amendments.
(Exhibit No. 3)

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David Wanzenried said now the fiscal note would have to be changed to reflect these amendments.

Senator Haffey said he didn't see assumptions about the fiscal note or in the statement of intent. The assumptions are all about testing and licensing, in the fiscal note and rule making process. There were no assumptions that there be an inspector out there.

David Wanzenried said that based on the language Gary Blewett described, our impression is that inspectors would be required; as the amendments clarify we do not have that power.

Senator Haffey said the amendment is consistent now with the statement of intent and the fiscal note. Neither of them address inspections and the bill doesn't address inspections.

Senator Manning asked whether, at the present time, the Department of Labor or Workers' Compensation Division has a person that goes out and inspects the licenses of crane operators.

David Wanzenried said yes.

Senator Manning asked if there is any reason why that crane operator inspector, at the same time, could not inspect for other licenses.

David Wanzenried said yes he could.

Senator Lynch asked if this also includes the setting of fees; they couldn't do that until 1987.

Senator Keating said they can write the rules and regulations, which would include designating the fees, and we would have a better handle on what is required for inspections. No, they can't give any tests until it has been legislatively approved.

Senator Manning asked if Senator Keating would have any objections if the committee held this bill and had the legislative council adopt a set of rules?

Senator Keating said the council can't do anything.

David Wanzenried said we could work up a set of rules and we can adopt them as law.

Senator Towe said to hold up this action is unnecessary. If the bill is not necessary, vote against the bill, but if the bill is necessary, don't wait for two years to implement the bill.

Senator Keating said the compelling reason for enacting legislation is using rule-making authority and ruling on legislative review. He would agree to go along with that legislation. This bill was before us two years ago and was defeated, it didn't seem to be compelling then and it doesn't seem to be compelling now. He didn't see why it couldn't be delayed another two years because he didn't see any compelling reason for it. There is no reason for enacting bad law for the sake of enacting law.

Senator Manning said if you buy a license for \$20 to \$30, some people already have licenses from other states; who took the tests that qualified them in this field. The reason for this bill is there are people out there putting themselves out as experts in blasting and don't have a license in any other states, they don't know what they are doing. The contractor hires them and the people in the area where the blasting is taking place may be in danger.

Senator Thayer said what he was saying is that at least these people will be required to pass a test that the Department will administer.

Senator Manning said most of the blasters that are now holding a license from Washington and other states would not have to take a long course or anything else; they could go in and take that test and pass it, because they already have their license, but somebody who is not qualified in that field, then would have to take training to become qualified in that field.

Senator Thayer said if this law was enacted, it would require contractors to hire people or only blasters who have a license.

Senator Manning said there are inspectors who go out and inspect crane operators and if they don't have a license they are not qualified.

A ROLL CALL vote was taken on Senator Keating's amendments on Senate Bill 194. The amendment failed with Senators Blaylock, Haffey, Manning, Towe and Lynch voting no and Senators Aklestad, Keating and Thayer voting yes.

Senator Blaylock asked if there would be a penalty for those without licenses.

John MacMasters replied that in section 1, no person may engage in the practice of construction blasting but a person licensed as a construction blaster by the Workers' Compensation Division. The bill doesn't say you can't hire a person who is not licensed, but if the person was hired without a license, he would be violating the law.

Senator Blaylock asked if a contractor hired as a blaster without a license and there was an accident, would he be in greater legal jeopardy for hiring a non-licensed blaster.

David Wanzenried replied that he is not an attorney, but it seems like you would have your bases covered if you were licensed; if you were unlicensed you would have greater liability exposure.

John MacMaster said on the basis of that there was a state statute requiring your people to have a license and you violated the statute.

Senator Haffey referred to section 1, line 18-22, and Page 9, section 12, lines 6-10 and even 6-15, which have penalty for violation of this new chapter. In addition to this, those who are not licensed and blast, and a personal injury or property damage occurs, there is a penalty, but they are also subject to all the other kinds of suits.

John MacMaster said yes.

Senator Keating offered amendments; Page 2, line 17:

Following: "logging,"
Insert: "Geophysical work,"

Mining of any kind may not cover geophysical work, geophysical work is mining related but not specifically mining.

Senator Keating made a motion to adopt the amendments.

Senator Keating's amendments passed unanimously.

Senator Haffey made a motion that Senate Bill 194 Do Pass as Amended.

Senator Aklestad asked if there are any fees.

Senator Lynch said there are no figures set, but it is up to the rule-making authority.

Senator Aklestad asked about the people coming in from Washington at this time; are those licenses to be acknowledged when they come to Montana or do they have to pay an additional Montana fee?

Senator Lynch said, again, that is up to the rule-making authority.

John MacMaster stated that, under this bill, there are 4 fees to be paid: 1) a fee to apply to take the test, 2) an exam fee, 3) a license fee, 4) a renewal fee.

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ACTION WAS DEFERRED ON SENATE BILL 194.

EXECUTIVE ACTION OF SENATE BILL 199: Senator Keating stated that contractors, if they use their heads, can get cheap help.

Senator Blaylock offered amendments from Senator Towe.
(Exhibit No. 3)

Senator Blaylock moved the amendments of Senator Towe.

On a voice vote, the committee voted unanimously that Senator Towe's amendments to Senate Bill 194 Do Pass.

Senator Manning made a motion that Senate Bill 199 DO PASS AS AMENDED. On a voice vote, the Committee voted unanimously that Senate Bill 199 DO PASS AS AMENDED.

Senator Manning made a motion that House Bill 137 be concurred in. On a voice vote, the committee voted unanimously that HOUSE BILL 137 BE CONCURRED IN.

Senator Keating will carry House Bill 137.

Senator Keating made a motion to reconsider action on Senate Bill 199. The motion carried.

Senator Keating referred to page 1, line 9, concerning an apprentice worker employed on a works project. Subsection (b) line 24, refers to any worker in an apprenticeship program. This omits the reference to employed on a public works project. There is an inconsistency there.

Senator Keating offered an amendment; Title, line 24.

Following: "worker"

Insert: "employed on a public works project"

Senator Keating moved the amendment.

On a voice vote, the committee voted unanimously that Senator Keating's amendments pass.

Senator Keating made a motion that Senate Bill 199 Do Pass As Amended. On a voice vote, the committee voted unanimously that Senate Bill 199 DO PASS AS AMENDED.

ADJOURNMENT: The committee, having no further business, adjourned at 2:00 p.m.


Committee Chairman

STANDING COMMITTEE REPORT

January 31

19 85

MR. PRESIDENT

We, your committee on Labor and Employment Relations

having had under consideration... House Bill No. 137

first reading copy (white)
color

(Senator Keating will carry the bill)

NAGE BASE PERIOD OF DISABLED PERSON FILING FOR UNEMPLOYMENT INSURANCE

Respectfully report as follows: That... House Bill No. 137

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

Chairman.

STANDING COMMITTEE REPORT

January 31 1985

MR. PRESIDENT

We, your committee on Labor and Employment Relations

having had under consideration Senate Bill No. 199

first reading copy (white)
color

PREVAILING WAGE FOR APPRENTICE ON PUBLIC WORKS PROJECT

Respectfully report as follows: That Senate Bill No. 199

1. Title, line 6.
Following: line 5
Strike: "AT THE PREVAILING HOURLY RATE"
Insert: "THE RATE SPECIFIED IN THE REGISTERED AGREEMENT"

2. Page 1, lines 22 and 23.
Following: "paid" on line 22
Strike: "at least the prevailing hourly rate for an
apprentice of that trade"

Insert: "the rate specified in the registered agreement"

3. Page 1, line 24.
Following: "worker"
Insert: "employed on a public works project"

4. Page 2, line 3.
Following: "for"
Strike: "journeymen"
Insert: "that craft"

DO PASS AS AMENDED

~~DO PASS~~

~~DO NOT PASS~~

Chairman.

Labor and Employment

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 1/31/85SENATE
SEAT
#

| NAME | PRESENT | ABSENT | EXCUSED |
|---------------------|---------|--------|---------|
| 1 Senator Aklestad | X | | |
| 46 Senator Blaylock | X | | |
| 9 Senator Haffey | X | | |
| 20 Senator Keating | X | | |
| 49 Senator Manning | X | | |
| 33 Senator Thayer | X | | |
| Sentor Towe | X | | |
| 5 Chairman Lynch | X | | |
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Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

DATE January 31 1985 BILL NO. 56194 TIME

| NAME | YES | NO |
|------------------|-----|----|
| SENATOR AKLESTAD | X | |
| SENATOR BLAYLOCK | | X |
| SENATOR HAFHEY | | X |
| SENATOR KEATING | X | |
| SENATOR MANNING | | X |
| SENATOR THAYER | X | |
| SENATOR TOWE | | X |
| CHAIRMAN LYNCH | | X |
| | | |

Beth Daulton
SECRETARY

J.D. Lynch
J.D. LYNCH

Motion: Keating amendments

January 31, 1985

Labour & Employment

Please Print

(Please leave prepared statement with Secretary)

House Bill 137

Current:

- A. Worker employed until totally, temporarily disabled: July 1975
- B. Draw Workers' Compensation coverage until: January 1980
- C. Employed: March 1980
- D. Separated from employment: July 1980
- E. Last date to file to be eligible for unemployment insurance: January 1982

Proposed:

- A. Same as above
- B. Same as above
- C. Same as above
- D. Same as above
- E. Last date to file to be eligible for unemployment insurance coverage: January 1977

For Sen. Manning
Exhibit No. 2
1/31/85

Proposed amendments to SB 194, introduced copy.

1. Page 7, line 23.

Following: line 22

Strike: "the respective program area"

Insert: "administering [this act]"

2. Page 8, line 1.

Following: "[section 9]"

Insert: ", except that the division does not have the power
under [this act] to make inspections into construction
blasting and may not adopt rules providing for such
inspections or for inspectors to carry out such
inspections"

3. Page 9, line 16

Following: line 15

Strike: "NEW SECTION."

Failed

Keating

Exhibit No. 3
1/31/85

Proposed amendments to SB 194, introduced copy.

1. Page 8, line 7.

Following: line 6

Insert: "Section 11. Legislative approval of rules. Rules
adopted under [this act] are not effective until
they are reviewed and approved by the legislature
in regular session."

Renumber: subsequent sections

90 copies
Kathy Brennan

passed

For Sen. Towe
suggested by
Dave Wanzan reid

Proposed amendments to SB 199, introduced copy.

Beth 304

SB 199

Exhibit 3

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Following: line 5

Strike: "AT THE PREVAILING HOURLY RATE"

Insert: "THE RATE SPECIFIED IN THE REGISTERED AGREEMENT"

2. Page 1, lines 22 and 23.

Following: "paid" on line 22

Strike: "at least the prevailing hourly rate for an apprentice
of that trade"

Insert: "the rate specified in the registered agreement"

4. Page 2, line 3.

Following: "for"

Strike: "journeymen"

Insert: "that craft"

3. Page 1, line 24.

Following: "worker"

Insert: "employed on a public works project"

For Sen. Towe
suggested by
Dave Wanzar Reid

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