

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

April 9, 1987

The twenty-fourth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on April 9, 1987, at 1:00 p.m. in Room 331 of the Capitol.

ROLL CALL: All members were present.

FURTHER CONSIDERATION OF HOUSE BILL NO. 884: Mr. Bob Robinson, representing the Workers' Compensation Division, handed out a summary to explain Sections 1-2-112 and 1-2-113, MCA, which is attached as Exhibit 1.

DISPOSITION OF HOUSE BILL NO. 884: Senator Blaylock made a motion to ADOPT the school district amendment. The motion CARRIED UNANIMOUSLY.

FURTHER DISCUSSION OF HOUSE BILL NO. 884: Senator Blaylock asked Mr. Bob Robinson if, with the bond sale back in the bill, what is the lowest percentage that would pay it off. Mr. Robinson stated there cannot be a sunset clause on a tax if it has to be extended with the bond. It has to be extended long enough to pay off the bonds. At two-tenths of one percent, it appears it would be sufficient to allow the State Fund to issue bonds for approximately \$40 million and pay that off over a ten year period.

Senator Lynch asked Mr. Robinson if the bonds are included in the present form of the bill. Mr. Robinson replied no, it was stricken from the bill in the House. Senator Lynch asked Mr. Robinson if the bond issue is added back into the bill, would there need to be a 2/3 vote to pass this bill. Mr. Robinson replied yes.

Senator Keating asked Mr. Robinson why the people in the plan that exercised under the benefits part of the plan were actually the beneficiaries of the liability. Their premiums were much lower than the benefits. He asked why an assessment or rate increase wasn't being addressed to those people who have benefited under the plan. Mr. Robinson stated a tax on all employers does achieve that, and some firms that have left the State Fund would be assessed under this bill. Many businesses have gone out of business or have left the state, and Mr. Robinson does not

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know how they could be taxed.

Senator Blaylock stated if the bill passes with the 2/10 of 1% tax, it really does not solve the problem of the State Fund. Senator Lynch agreed, but he does not see how this problem could be solved in one session. Senator Lynch asked Mr. Robinson if the 2 /10 of 1% would give the fund \$16 million. Mr. Robinson stated it would allow approximately \$16 million towards paying off some of the unfunded liability, but they would be required with the 2/10 of 1% to put on a rate increase of approximately 20-24% on State Fund Insurers on Plan 3.

Senator Haffey asked Mr. Robinson what the rate increase would be. Mr. Robinson stated he cannot estimate the exact rate because the actuaries will be in in the next two or three weeks. Given the numbers they have been dealing with, and the flow of the unfunded liability, and assuming the unfunded liability is at \$140 million, they believe the rate increase would be a minimum of 20%, and that includes advance premiums.

Ms. Mary Bryson, representing the Legislative Auditor's Office, stated that under the request of the Workers' Compensation Division and various legislators, they have done some research regarding the status of the State Compensation Insurance Fund. It has been estimated there will be an increase in premiums by at least 24% if they are going to pay off the unfunded liability over a ten year period. This should start by July 1, 1987. It would be the recommendation of the Legislative Auditor's Office that if they do not do something to raise premiums, then they are not in compliance with current statute which requires them to maintain the fund on a sound financial basis.

Senator Lynch asked Rep. Smith what this would do to the logging industry. Rep. Smith stated the logging industry is currently at 34.39% and with an additional 20%, it will raise it another 7%, which is 41%. That is 41¢ per \$1.

Senator Thayer stated what bothers him is that during his meetings with the Governor's Advisory Council, they were told the State Fund only had a \$12-25 million unfunded liability. Then there was an audit that showed an unfunded liability of \$90 million. \$60,000 was spent to prove there was not a \$90 million unfunded liability, but that it was at \$29 million. Then, 6 months later it was proved to be \$81 million in unfunded liability. Senator Thayer said he was under the impression Senate Bill 315 was the equivalent

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of putting in a 20-24% cut, and the offset was that they had to raise premiums approximately 34%. Now the committee is told 2/10 of 1% is not going to do the job. Senator Thayer said he is upset with the entire situation.

Senator Haffey stated the committee was told Senate Bill 315, with some modest amendments, would result in approximately a 22% reduction of the cost of Plan 3. He felt the numbers showed there would be no upward movement in the premiums. Mr. Robinson stated that was also his understanding. Right now the State Fund's rates are roughly 20% lower than they should be. The actuaries' estimate for the savings due to the effect of Senate Bill 315 was a 20-25% savings based upon a full-funding or appropriate funding premium level. If the premiums were at the appropriate level, there would have been a 22-25% reduction. It was not there, so the prospective savings would not be realized because it is already at the level where it would have been dropped down. The Department's testimony of Senate Bill 315 stated the best State Fund employers could hope for in the future was to stay even. The unfunded liability did grow from \$3 million to \$29 million to \$81 million, and now it is projected to be approximately \$140 million, based on cost increases and because premiums rates have not been high enough. Senate Bill 315, at best, would keep the State Fund rates where they were because the premiums were 20% too low.

Senator Haffey asked Mr. Robinson if the premiums were 20% too low even had there been no unfunded liability. Mr. Robinson replied yes. House Bill 884 would provide a solution for the unfunded liability.

Senator Lynch asked Mr. Robinson if House Bill 884 does not pass, would there be an increase in the premium rate. Mr. Robinson stated there would be an automatic 27-30% increase of rates.

Senator Thayer stated it does not matter whether the premiums are raised or if there is a surcharge, the results will be a raising of rates for the employers of Montana.

Senator Blaylock feels this bill will run many employers out of business.

Senator Haffey stated he feels to keep the State Fund in existence, it cannot be done at less than 5/10 of 1%. He feels this should be explained very clearly on the Senate

LABOR AND EMPLOYMENT RELATIONS

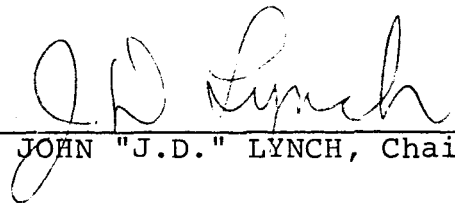
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floor so everyone understands what this bill would accomplish.

DISPOSITION OF HOUSE BILL NO. 884: Senator Thayer made a motion that House Bill 884 AND AS AMENDED, BE CONCURRED IN. The motion CARRIED 5-3. See attached roll call vote sheet.

ADJOURNMENT: There being no further business to come before this committee, the hearing adjourned at 1:30 p.m.



SENATOR JOHN "J.D." LYNCH, Chairman

jr

ROLL CALL

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 4/9/87

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X		
Richard Manning	X		
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage	X		
Jack Haffey	X		
Jack Galt	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date April 9, 1987 Bill No. HB 884 Time 1:05 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	X	
Richard Manning		
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage		
Jack Haffey		
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Amendments

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date April 9, 1987 Bill No. HB 884 Time 1:25 p.m.

<u>NAME</u>	<u>YES</u>	<u>NO</u>
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	X	
Richard Manning	X	
Thomas Keating		X
Chet Blaylock	X	
Delwyn Gage		X
Jack Haffey	X	
Jack Galt		X

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Be Concurred In, And As Amended
(Gages)
Lynch

AMENDMENT TO HB 884

1. Page 13, line 8.

Following: line 7

Insert: "NEW SECTION. Section 8. Prior law superseded. [This act] hereby supersedes the provisions of 1-2-113 as it may apply to [this act]."

Renumber: subsequent sections

STANDING COMMITTEE REPORT

April 9, 1937

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration... HOUSE BILL NO...... No. 384

third reading copy (blue)
color

PAYROLL TAX TO FUND WORKERS' COMP. PLAN NO. 3; SALE OF BONDS

SMITH (LYNCH)

Respectfully report as follows: That... HOUSE BILL..... No. 384
be amended as follows:

1. Page 13, line 8.

Following: line 7

Insert: "NEW SECTION. Section 8. Prior law superseded. (This act) hereby supercedes the provisions of 1-2-113 as it may apply to (this act)."

Renuumber: subsequent sections

AND AS AMENDED,
BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXX~~

.....
Sen. John "J.D." Lynch Chairman.

DEPARTMENT OF LABOR & INDUSTRY

DIVISION OF WORKERS' COMPENSATION

MARGARET "PEG" CONDON BLDG.
5 SO. LAST CHANCE GULCH

TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

HELENA, MONTANA 59601

April 9, 1987

Senator J. D. Lynch
Senator Thomas Keating
Senator Bob Williams
Montana Senate - Capitol Station
Helena, MT 59620

Dear Senators Lynch, Keating and Williams:

During the hearing on HB-884, you requested us to provide information on three items. We included all three items in this letter because we thought you would be interested in our responses. The information is provided below:

1. Senator Lynch asked for a legal opinion as to whether Sections 1-2-112 and 1-2-113 of the Montana statutes prohibited imposing the payroll tax, contemplated in HB-884, against school districts. In researching this matter, our attorney concluded the key to the question is contained in the first clause of the statute which requires a local government unit or school district "to perform an activity or provide a service or facility which will require the direct expenditure of additional funds, must provide a specific means to finance the activity, service or facility other than the existing mill levies."

HB-884 does not require these entities to perform a new activity or provide a service or new facility requiring an expenditure of additional funds. Montana law requires all employers to provide workers' compensation insurance coverage and the bill before the committee requires all employers to pay a tax to solve the unfunded liability problem. This tax has been proposed essentially as a substitute for a major premium increase by the State Compensation Insurance Fund. A rate increase itself would not be subject to Sections 1-2-112 or 1-2-113, therefore, in our attorney's opinion, these sections do not effect HB-884.

2. Senator Keating requested a comparison of the classification codes and rates used by state agencies with the classification codes and rates which might be assigned by an insurance carrier. There are some directly comparable codes and in other cases where the State Fund provides consolidated or special codes which would be used by state agencies, it was necessary to identify the codes used by the insurance industry which might be comparable. The attached schedule shows a comparison of rates by class code. The rates shown for the State Fund were effective on January 1, 1987. The rates shown for the National Council on Compensation Insurance (NCCI) are the rates submitted to the Insurance Commissioner's Office effective July 1, 1986. These rates are advisory for the insurance carriers doing business in Montana and each insurance carrier can and does file deviations from NCCI's submitted rates. We do not know what an individual insurance carrier may charge for a particular code.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 4/9/87

Safety
406-444-6518

BILL NO. HB 884

Administration
406-444-6518

Division Telephones:
Insurance Compliance
406-444-6530

The schedule is not all inclusive but is a sample of codes and rates used by numerous state agencies with the rates filed by NCCI for comparable codes. In most cases it would be necessary to obtain specific payroll distribution in order to compare the actual premium which would be paid by a state agency.

3. Senator Williams requested earned premium, liabilities and other information on the counties and cities when they terminated their coverage with the State Fund and formed self insurance groups through the Montana Association of Counties (MACO) and the League of Cities and Towns.


The division approved MACO's self insurance group effective October 1, 1985. Numerous counties have joined the group since that time and presently 43 counties provide their workers' compensation insurance through this group program. We analyzed the earned premium and liability information of all 43 counties for the accidents from FY/82 through the period where the counties terminated and transferred to the MACO group program. The total liabilities charged to these 43 counties was approximately \$7,257,000.00 and the earned premium for the same period was \$5,967,000.00 which results in an underwriting loss of approximately \$1,290,000.00. This, of course, does not include any liabilities prior to FY/82 which may have been in excess of earned premium nor does it include any allocation for administrative costs.

The division approved the League of City and Towns group insurance program effective January 1, 1986. Since that time, 73 cities or towns have transferred their coverage to the group program. Again, we analyzed all 73 cities or towns for the same period as mentioned above and found the earned premium was approximately \$6,772,000.00 and the total liabilities for the accidents during that period was \$8,950,000.00, leaving an underwriting loss of approximately \$2,178,000.00.

Contrary to the testimony presented at the hearing on HB-884, the above data shows the counties and cities did contribute to the unfunded liability problem. We will certainly provide more detailed information if you desire.

Sincerely,

ROBERT J. ROBINSON
Administrator
Division of Workers' Compensation


James J. Murphy
Bureau Chief
State Compensation Insurance Fund

RBJ/JJM/vj

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 4/9/87

BILL NO. HB 884

Comparison of Rates by Class codes Used by
State Agencies

<u>State Fund</u>			<u>NCCI</u>		
<u>Class Code</u>	<u>Description</u>	<u>Rate</u>	<u>Class Code</u>	<u>Description</u>	<u>Rate</u>
7422	Aircraft Operation	6.89	7422	same	17.32
7720	Hwy. Patrol Officers	3.41	7720	Police Officers	8.04
8810	Clerical	.39	8810	Clerical	.80
9410	NonProfessional Employers & Supervisors	4.31	9410	State Employees	5.40
8868	University Professional/Clerical	.33	8868	same	.79
9101	University - other employees	3.93	9101	same	8.49
			0016	Orchard	16.60
			0036	Dairy	20.69
0006	Farm Employees	6.89	0037	Field Crops	15.61
			0083	Cattle or Livestock	24.43
			0169	Goats or Sheep	18.15
7721	Prison Guards, etc.	6.12	7720	Police Officers	8.04
8834	Asylum/Hospital	10.39	8833	Asylum-Professional	5.39
			9040	Asylum- other	11.74
			8742	Sales, Collectors	1.50
8743	Professional/Admin.	.62	8820	Attorney	.69
			8832	Physicians	.63

SENATE LABOR...
 EXHIBIT NO. 1
 DATE 4/9/87
 BILL NO. HB 584