

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman William E. Farrell, on January 11, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman William E. Farrell
Senator Hubert Abrams
Senator John Anderson, Jr.
Senator Esther Bengtson
Senator Sam Hofman
Senator Paul Rapp-Svrcek
Senator Tom Rasmussen
Senator Eleanor Vaughn

Members Excused: Senator Ethel Harding

Members Absent: None

Staff Present: Eddy McClure

HEARING ON SB 49

Presentation and Opening Statement by Sponsor:

Senator Tom Rasmussen reported that SB 49 deals with an issue concerning seasonal and temporary employees relating to their benefits. This bill was requested by the Department of Administration, and Senator Rasmussen indicated he would like to call on Laurie Ekanger from the Department of Administration.

List of Testifying Proponents and What Group they Represent:

Laurie Ekanger, Administrator, State Personnel Division
Tom Schneider, Executive Director, Montana Public Employees Association and member, Employee Benefits Council

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Ms. Ekanger reported that the State Personnel Division asked for this law change on advice of their legal council. The department's practice has been to treat all seasonal and temporary employees the same as permanent employees. Currently, in order for a permanent part-time employee to receive the state share toward their health insurance benefit contribution, and to a member of the state benefit plan, they are required to work at least 20 hours per week. Seasonal, temporary and intermittent employees have been treated the same way. Sometime in the last year, the question was raised by some seasonal intermittent employees, who worked less than 20 hours per week, indicating the law is not specific about seasonal employees. They cited that there did not appear to be a requirement that they work 20 hours, and they asked to be considered for their share of the state contribution and be put on the benefit plan. Ms. Ekanger noted that the department does not believe the intent of the law is to, and there practice has not been to treat seasonal and intermittent and temporary employees better than permanent employees, in giving them benefits for working fewer hours than the permanent part-time employees. Ms. Ekanger indicated paragraph 2 in Section 1 describes eligibility for permanent part-time employees, and noted that language has been essentially duplicated in paragraph 3 for seasonal full-time employees. She further noted paragraph 4 has been added for seasonal part-time employees, and paragraph 9 has similar language for temporary full-time employees. In addition, Section 2 clarifies that part-time, temporary, seasonal employees should be treated the same, for the purposes of benefits eligibility.

Ms. Ekanger indicated this bill is to prevent legal challenges in expanding eligibility under the benefit plan, and she urged the committee to pass SB 49.

Mr. Tom Schneider indicated he would like to go on record in support of SB 49.

Questions From Committee Members:

- Q. Senator Bengtson asked if there has been a lot of controversy from people wanting to collect benefits, or be on the benefit plan.
- A. Ms. Ekanger responded there has not been a legal challenge to date, but some people have asked the question and pressed the issue. She further indicated she did not know how many people this would affect, but it could be as many a couple of hundred. She noted that the purpose of this bill is to prevent any kind of controversy.

Chairman Farrell announced the hearing on SB 49 as closed.

HEARING ON SB 75

Presentation and Opening Statement by Sponsor:

Senator Judy Jacobson stated that SB75 will change the audit of the State Employee Group Benefit Plan from an every year audit to every 2 years. Senator Jacobson indicated this change would save approximately \$20,000. She noted that all the members of the Audit Committee signed the bill, and that it has also been supported by the State Employee Group Benefits Advisory Council.

List of Testifying Proponents and What Group they Represent:

Laurie Ekanger, Administrator, State Personnel Division
Tom Schneider, Executive Director, Montana Public Employees Association and member, Employee Benefits Council

Testimony:

Ms. Ekanger indicated the State Personnel Division is responsible for administration of the state group health plan, and is advised in that responsibility by the Group Benefits Advisory Council, and Legislative Auditor Scott Seacat sits on that Council. In an effort to find cost-saving measures, Ms. Ekanger indicated this change was identified by the department and the council as one that would save \$23,500, the amount budgeted for annual audits. She noted the department felt that, for that same amount of money, they could be consistent with the Legislative Auditor's audit of the rest of state government, and do an audit every 2 years for the full two year cycle. She indicated this bill is strictly a cost-saving measure, is supported by the department and the advisory council, and they urge passage of SB75.

Mr. Schneider indicated the only thing he would like to add is that the audit is really a compliance audit to see how the plan is working as far as delivering financially, and how the claims are being handled. He stated it has nothing to do with whether there should be higher or lower premiums. Mr. Schneider reported a full-time consultant attends every meeting that is held, and makes recommendations and files monthly reports with the council and with the state. He noted the plan would not just sit out for 2 years with no one looking at it.

Closing by Sponsor:

Senator Jacobson closed by stressing that this bill will save money.

OTHER BUSINESS

Chairman Farrell recognized Senator Rapp-Svrcek.

Senator Rapp-Svrcek reported that, since the beginning of the week, there have been further developments regarding the appointment of Leon Houglum as Director of the Department of Family Services. He noted that Mr. Houglum has met personally with several of the committee members, but the web seems to get thicker and thicker. Senator Rapp-Svrcek stated he personally is very confused and concerned about this appointment in that, by this committee's action, there could be a major affect on a man's life and livelihood for some time to come, and it is a serious consideration. He further stated it is his understanding that, in the past, these appointments have been dealt with sometimes as late as after transmittal, and he fears rushing into this one in particular. Senator Rapp-Svrcek offered the suggestion that a full-blown hearing be held on this appointment, and that all the parties concerned be invited to attend. He stated he spoke with Mr. Winslow on the phone this morning, and Mr. Winslow indicated he and his wife would be willing to attend. Senator Rapp-Svrcek indicated the involvement of Mr. Moses, an attorney who is well-respected state-wide, has made him wonder about the seriousness of the allegations. Senator Rapp-Svrcek indicated that the thought Mr. Houglum would want to attend, and the City Attorney in Billings should be invited. He stated he also thinks the committee should gather as much information as possible prior to making a decision on this nomination.

Chairman Farrell asked Senator Rapp-Svrcek if he would like to offer a motion to that effect, or if he would like the Chairman to make a motion, and schedule another hearing.

Senator Rapp-Svrcek responded that he is open to suggestions from the chair and the rest of the committee. He is, at this point, voicing a concern and a suggestion. He further stated he would be happy to make a motion, if that is the chair's pleasure.

Senator Vaughn indicated she agrees with Senator Rapp-Svrcek. She noted that the complaints are strictly from the newspaper, and she does not think that is fair. She indicated the committee members have had a chance to discuss this with the appointee, and she feels the committee members should make further checks. She also stated she feels, out of fairness to this man who is being appointed to a responsible position, and the fact that the Family Services has had a certain amount of problems, and she would feel comfortable with the position of Senator Rapp-Svrcek.

Senator Abrams indicated he has no problems with a full hearing, and is in favor of that.

Senator Rapp-Svrcek asked Chairman Farrell what his feelings are. Chairman Farrell responded that he has no problems with a full hearing. The only thing he has problems with is substantiating some of the claims that have been made in the letter that was written to him. He further stated that one of the things that he does not like to see, personally, is a trial by news, and he is not sure that these are claims that are made by sour grapes, or whether there is some factual information. Chairman Farrell re-stated that he has no problem with a full hearing, if that is what the committee decides.

Senator Bengtson stated she disagrees with a full-blown hearing. She stated she thinks it touches too many lives, and she is concerned about the kinds of testimony that will be given as it will have a lasting affect on people's personal lives. As an option, rather than calling in the people involved and having them testify as to these very difficult things to judge, Senator Bengtson suggested that the legal authorities, the City Attorney that has been dealing with this, or maybe the Attorney General's office who investigated the appointee, provide a written report, and that the committee review reports and see if the information is sufficient. Senator Bengtson stated she does not think it would serve any real good purpose to have all of this laid out before us and the public. She noted they are probably willing, and feel strongly about their feelings, but she is not sure that is the proper way to do it.

Senator Rasmussen agreed with Senator Bengtson that this kind of thing could lay raw all of the allegations, which are unsubstantiated. He noted he would like to do this as quickly and as prudent as possible, in terms of time, and not let this thing drag out. Senator Rasmussen noted that it was his understanding that the City Attorney in Billings has indicated he could not release some of this information, and asked Eddy McClure if she knew was the situation was.

Eddy McClure responded that she knows less than the committee does, that she has not seen the report that the committee received.

Senator Hofman moved that the committee follow the suggestions offered by Senator Bengtson, and see what develops out of that. He suggested that, if we can get all of the information that is pertinent and that we need to make a decision, that we go from there. If that proves not to be workable, then we will have to try another approach. Senator Hofman indicated

that he likes Senator Bengtson's arguments, and thinks she is absolutely correct in that we should not have all those people here, and have an emotional hearing with charges and counter-charges being made. Senator Hofman stated he did not think that is in the best interest of anyone involved.

Chairman Farrell clarified the motion, asking Senator Hofman if he moves that the chair contact the City Attorney in Billings and the Attorney General.

Senator Bengtson stated she would hope that somehow Chairman Farrell could decide, through legal advice, who would be the appropriate people to ask for a written report this committee. She further stated it was her understanding that the appointees have been investigated by the Attorney General's office, and, from the material the committee has, that the City Attorney in Billings has information. She the committee review this information proceeding.

Senator Rasmussen asked if the chair was suggesting written states, or if he was suggesting a representative from each of those offices attend the hearing.

Senator Bengtson noted that the hearing is public, but she is not sure if the committee should review the written material first, before calling to appear before the committee.

Senator Rasmussen indicated it would be better to have them here so they could be involved in the discussion. Chairman Farrell indicated he felt that could be arranged, but that it probably could not be done this week. He could, however, ask them to prepare a written statement, and ask them present it to the committee in a hearing next week.

Senator Anderson indicated he agrees with Senator Bengtson, and the committee has to be careful because this situation could involve legal action between the individuals. He stated a full-blown committee hearing could be a dangerous thing.

Senator Bengtson indicated she does not think any of the committee members are skilled in interrogating people, and asked what types of questions would the committee members pose to these people that would appear before the committee. She stated she would not know the proper questions to ask to get the kind of answers they need.

Senator Rapp-Svrcek asked Chairman Farrell and Senators Bengtson and Hofman if Mr. Moses and any legal representative of Mr. Houglum's would be included in the people that were called to appear before the committee.

Senator Hofman indicated his motion did not include that and he indicated he would leave it to the discretion of the Chairman.

Chairman Farrell restated the motion that the committee would like him to contact the City Attorney, the investigating officer and the Attorney General, and ask them to make a written report and appear in person before the committee to present their report, in case the committee members have questions.

Senator Rapp-Svrcek indicated he would also like the Chairman to use his discretion as to any further participants in that process. Senator Rasmussen indicated that someone from the Governor's office should be here because they supposedly did the investigation, and they should be asked to present their information. Senator Bengtson indicated it should be understood that, if the committee does get enough information, they have other alternatives that can be pursued.

Chairman Farrell asked Senator Bengtson if she would allow him to schedule, at his discretion, the next time it is brought before the committee, based on how long it takes them to get the information back. He indicated he assumed it would be next week, perhaps the middle of the week, but he will have to find out how long it will take.

Recommendation and Vote:

Motion passed by the committee that the Chairman request written statements from the Billings City Attorney, the investigating officer, and the Attorney General's office in regard to the allegations against Leon Houglum, and ask those individuals to appear in person before the committee, at a time to be set by the Chairman, to present their statements and answer any questions.

ADJOURNMENT

Adjournment At: 10:30 a.m.


WILLIAM E. FARRELL, Chairman

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE: January 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING			✓
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

Department of Administration

TESTIMONY IN FAVOR OF SB 49

I. PURPOSE OF THE ACT

Current practice is to treat seasonal and temporary employees exactly the same as permanent employees for group benefits. All state employees who are regularly scheduled to work at least 20 hours per week are eligible for state group benefits and the state's contribution toward the cost of those benefits. The law is very clear and specific about this 20 hour criteria for permanent part-time employees. However, the law is silent on work hours for seasonal and temporary employees. This bill will clarify the law to insure that temporary and seasonal employees receive the same and no more benefits than permanent employees.

II. WHY IS THIS CHANGE IN LAW NECESSARY?

The bill will eliminate the basis for court challenge to the eligibility criteria for group insurance benefits and state contribution. Presently, seasonal and temporary employees working less than 20 hours a week could attempt to demand full benefits. This would provide sporadic or short term employees of the state better benefits than permanent employees, and result in permanent employees demanding equal treatment. Such challenges if successful, would dramatically increase the state's costs for group insurance.

III. SUMMARY

This bill will clarify statute in favor of existing practice and thereby discourage legal challenges. No benefits are gained or lost by passage of this bill.

For more information, please call Laurie Ekanger or Rod Sundsted, State Personnel Division, 444-3871.

SENATE STATE ADMIN.
EXHIBIT NO. 2
DATE 1/11/89
BILL NO. SB 75

PD 1/89

Department of Administration

TESTIMONY IN FAVOR OF SB 75

I. PURPOSE OF THE ACT

This bill amends the requirements for an annual audit of the state employee group benefit plan to an audit every two years covering the two year period since the last audit to be consistent with the Legislative Audit Act.

II. WHY CHANGE FROM AN ANNUAL TO A BIENNIAL AUDIT?

The expense of a second audit every biennium will be saved (an approximate biennial savings of \$20,000).

A biennial audit is the standard audit frequency required for audits of most state agencies by the Legislative Auditor in the Legislative Audit Act, Section 5-13-304 (1), M.C.A.

The change is supported by the State Employee Group Benefits Advisory Council established by Section 2-15-1016, M.C.A.

The change is supported by the Legislative Audit Committee.

III. SUMMARY

This bill is proposed as a cost-saving, efficiency measure.

For more information call Laurie Ekanger or Rod Sundsted, State Personnel Division, 444-3871.

