

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Chairman, Senator Gary C. Aklestad on  
February 17, 1989, in room 415 in the state Capitol.

ROLL CALL

Members Present: All members were present.  
Senator Tom Keating, Vice Chairman, Senator Sam Hofman,  
Senator J.D. Lynch, Senator Gerry Devlin, Senator Bob  
Pipinich, Senator Dennis Nathe, Senator Richard Manning,  
Senator Chet Blaylock, and Senator Gary C. Aklestad,  
Chairman.

Members Excused: There were no members excused.

Members Absent: There were no members absent.

Staff Present: Tom Gomez, Legislative Council

Announcements/Discussion: None

HEARING ON SB 444

Presentation and Opening Statement by Sponsor:

Senator Gary C. Aklestad, chief sponsor of SB 444, said the bill was introduced to put stronger language into the statutes, as far as separating the unfunded liability in the Workman's Comp Division. Senator Aklestad stated there should be a greater assurance, than what is now on the books, to make sure those monies are not funneled off. But, the monies, in fact, do pay for the unfunded liability. That amount should be established.

List of Testifying Proponents and What Group They Represent:

Don Judge, representing the Montana AFL-CIO.

Testimony:

Chairman Aklestad noted the AFL-CIO will be recognized as a proponent, as stated in Don Judge's correspondence. (EXHIBIT #1)

List of Testifying Proponents and What Group They Represent:

There were no testifying proponents.

Questions from the Committee:

Senator Blaylock questioned if the bill will be terminated on June 30, 1991.

Senator Gary C. Aklestad explained the language in another bill will supercede this one and it will not terminate until 1994. He suggested the date be changed to Coincided with the other bill.

Scott Seacat, Legislative Auditor, noted the bill, being referred to, is SB 405. He stated the committee may not want to change the date in the bill, but may want to have the staff counsel research it. He stated the intent of the bill is not to change the effective date, but to change the payroll tax. Mr. Seacat noted, if the date is changed, the date will change the purpose and intent of the bill.

Tom Gomez suggested there should be a coordinating clause in the bill. The clause will say: "if SB 405 is enacted, the appropriate section of SB 44 will be amended to read "1994". Gomez also suggested the term "payroll and wage tax" be inserted in the bill in order to be consistent with SB 405.

Closing by Sponsor:

Senator Gary C. Aklestad urged passed of SB 444.

EXECUTIVE SESSION

DISPOSITION OF SB 444

Recommendation and Vote:

Senator Blaylock moved SB 444 DO PASS, AS AMENDED with the coordinating amendments. The motion CARRIED.

DISPOSITION OF SB 420

Discussion:

Chairman Aklestad explained there is a concern after the Nation Labor Relations people makes the determination the employer is in error, and the employees still will not be able to draw unemployment. The amendment will alleviate this concern.

Senator J.D. Lynch moved the amendment.

A short explanation of the amendment was presented by Bob Jensen. Mr. Jensen stated there is a different way to handle a case when there is an alleged violation of a private company concerning unfair labor practice. If an appropriate federal agency finds there is a violation, the party could still be awarded benefits. Senator Aklestad stated there may still be a problem. They may say the benefits should be awarded. Then, there may be a court challenge, and if the court decision is overruled, there could still be a problem. Mr. Jensen stated the Battin Decision has not gotten to the point, yet, where he has made a decision. Even if there is an unfair labor practice violation found by the National Labor Relations Board, there is a question whether benefits could be awarded under Montana Statutes. The bill complies with the Battin decision up until this point.

Amendments and Vote:

The question was called, and the motion CARRIED.

A short discussion was held in regard to Senator Blaylock's question about the results, if the bill did not pass. Mr. Jensen stated, at some point of time, the state may have the same results, regarding Battin's decision. Right now, the state is excluded. The state Board of Labor Appeals can not make a decision on Federal statutes. Senator Blaylock asked if the bill is passed, does any move to overcome Battin's decision become mute. Mr. Jensen stated no. The Union has appealed Battin's decision.

Recommendation and Vote:

Senator Tom Keating moved SB 420 DO PASS AS AMENDED. The motion CARRIED. Senators Blaylock, Manning and Pipinich voted NO.

DISPOSITION OF SB 421

Discussion:

A brief discussion was held regarding the reciprocal agreement with Canada for payments for injured workers.

Senator Aklestad stated it will be better for the Canadians to draw on the Canadian Fund, and we will draw on our own funds. It will be better to have the reciprocal agreement. The topic should have been handled in trade negotiations at the National level, rather than each state having to deal with the issue independently.

Senator Keating asked if the reciprocal agreement will be negotiated with all the provinces in Canada. Senator Aklestad stated it can be, the title gives the latitude. Unfortunately, this bill should have been taken care of in trade negotiations. People informed the congressional delegation. Now, each state must go through the process.

Recommendation and Vote:

Senator Lynch moved SB 421 DO PASS. The question was called, and the motion CARRIED.

DISPOSITION OF SB 315

Discussion:

Senator Keating explained what is going to happen with deductible insurance. An employer can get up to \$2,500 in deductibles in \$500 increments, so it could read \$500 deductible, \$1000 deductible, etc.

Senator Keating explained the insurer, whether it is the department or a private workers comp insurer, will pay claims. The insurer will bill the employer for deductibles. The deductible will be paid by the employer to the department or to the insurer. This will avoid management problems. Senator Keating noted there will be very little additional management for the Workers' Comp Fund because the department must determine compensability and pay claims. Senator Keating stated the only other beneficial thing the bill will do is: Under the deductible, the employer may be able to bring down the cost of premiums, as to experience from claims.

Amendments and Votes:

Senator Tom Keating moved the amendments. The question was called, the motion CARRIED.

Recommendation and Vote:

Senator Keating moved SB 315 DO PASS AS AMENDED.

Senator Keating stated the presumed non-liability of the employer under Workers' Comp is not affected, according to his understanding. The cost of administration does not go back against the employer. The claims are paid as usual, and the deductible is paid through the department. There is no add on for administration fees.

Senator Blaylock stated he thinks SB 315 is a good

experiment. It doesn't endanger the employees. Hopefully, the rates will go down.

Chairman Aklestad asked for further discussion, being none, the question was called for. The motion CARRIED.

Senator Keating stated SB 315 will make the employer more safety conscience.

#### DISPOSITION OF SB 405

##### Discussion:

Chairman Aklestad explained the first amendment. The amendment will strike 1993 and insert 1994 on page 1, line 21.

##### Amendments and Votes:

Senator Lynch moved the amendment. The motion CARRIED.

The Chairman explained the amendment, to be inserted in the title of the bill. Insert the words "and wage" after the word payroll on line 10.

Senator Devlin moved the amendment. A roll call vote was taken. The motion CARRIED. Senators Lynch, Pipinich, Manning and Blaylock voted NO. (Amendment NO. 2 on SB 405)

Tom Gomez stated there is a section of law that seems to conflict with the bill. The statute, 39-71-406, which states it is unlawful for the employer to deduct or obtain any part of any premium required to be paid by this chapter from the wages or earnings of his workers, and the making or attempt to make any such deduction as such is a misdemeanor". There is a question because the bill will require the employer to deduct the tax from the employees wage. A conflict could arise.

Chairman Aklestad stated the amendment strikes 39-71-406.

Tom Gomez said the bill should read: Nothing in 39-71-406 shall be construed to conflict with the provisions of the act.

Senator Keating moved the third amendment. A roll call vote was taken. The motion CARRIED. Senators Lynch, Pipinich, Manning and Blaylock voted NO. Senators Hofman, Devlin, Nathe, Keating, and Aklestad voted YES.

Senator Lynch stated SB 405 is, without a doubt, a bad bill. The bill makes the employees bail themselves out.

Senator Blaylock stated the bill is unfair.

Senator Aklestad stated the bill tries to pay the unfunded liability with the General Fund. This is not going to happen.

Senator Blaylock stated the lump sum payments were eliminated and will save the fund in the future. It is in the process of correcting itself.

Senator Keating stated the lump sum payments has to be retired. Some are receiving a five percent reduction in claims, and the high premiums is still a deterrent.

Senator Aklestad stated the fund does not decline until 1992. It is still not completely solvent, but it is slowed down. This is a draw-down, a discounted figure. Depending on the payoff, the legislative auditor's figures are 200 to 205 mills.

Senator Devlin moved SB 405 AS AMENDED, DO PASS. The motion passed.

DISPOSITION OF SENATE BILL 415

Senator Keating made a motion for Do Pass recommendation The DO PASS motion passed.

DISPOSITION OF SENATE BILL 375

Senator Keating stated the bill encompasses more than construction. It also includes remodeling.

Amendments and Vote:

Senator Nathe discussed the Lockwood School situation and the action of the Attorney General concerning the Lockwood School.

Senator Nathe moved to amend SB 375. The amendment passed.

Recommendation and Vote:

Senator Nathe moved SB 375 AS AMENDED DO PASS. The motion was accepted.

ADJOURNMENT

Adjournment At: The meeting was adjourned at 5:37 P.M.

GCA/mfe

Senator Gary C. Aklestad, Chairman

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: Feb 17, 1989

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	X		
SENATOR SAM HOFMAN	X		
SENATOR J.D. LYNCH	X		
SENATOR GERRY DEVLIN	X		
SENATOR BOB PIPINICH	X		
SENATOR DENNIS NATHE	X		
SENATOR RICHARD MANNING	X		
SENATOR CHET BLAYLOCK	X		
SENATOR GARY AKLESTAD	X		

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 444 (first reading copy -- white), respectfully report that SB 444 be amended and as so amended do pass:

1. Page 3, line 7.

Following: line 6

Insert: "NEW SECTION. Section 3. Coordination instruction. If Senate Bill No. 405 is passed and approved and if it provides for a tax on employee's wages, then [section 1(4)] of this act is amended so that language referring to "The revenue derived from the payroll tax imposed by 39-71-2503" will read "The revenue derived from the payroll and wage tax imposed by 39-71-2503"."

Renumber: subsequent section

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_  
Gary C. Aklestad, Chairman



SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 420 (first reading copy -- white), respectfully report that SB 420 be amended and as so amended do pass:

1. Page 3, line 3.

Following: "occurs"

Insert: "pertaining to collective bargaining, hours, wages, or other conditions of work"

2. Page 3, line 8.

Following: line 7

Insert: "(4) An individual otherwise disqualified from receiving benefits under this section is entitled to unemployment benefits if a court or agency of the federal government has determined that the labor dispute was caused by the employer's violation of any law of the United States pertaining to collective bargaining, hours, wages, or other conditions of work."

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_  
Gary C. Aklestad, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 421 (first reading copy -- white), respectfully report that SB 421 do pass.

DO PASS

Signed:   
Gary C. Aklestad, Chairman

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SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 315 (first reading copy -- white), respectfully report that SB 315 be amended and as so amended do pass:

1. Page 1, lines 22 and 23.

Following: "be" on line 22

Strike: remainder of line 22 through "\$500" on line 23

Insert: "offered in amounts of \$500 increments, up to a total of \$2,500"

2. Page 2, line 4.

Following: "employer"

Strike: "may:"

Insert: "shall"

3. Page 2, lines 5 through 7.

Strike: subsection (a) in its entirety

4. Page 2, line 8.

Strike: "(b)"

5. Page 2, line 12.

Following: "amount."

Insert: "The insurer is entitled to reimbursement only for medical, hospital, and related services allowed under 39-71-704, up to the amount of the deductible."

6. Page 2, lines 13 through 19.

Strike: subsection (4) in its entirety

Renumber: subsequent subsection

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_  
Gary C. Aklestad, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 405 (first reading copy -- white), respectfully report that SB 405 be amended and as so amended do pass:

1. Title, line 10.  
Following: "PAYROLL"  
Insert: "AND WAGE"

2. Page 1, line 21.  
Strike: "1993"  
Insert: "1994"

3. Page 5, line 17.  
Following: line 16  
Insert: "NEW SECTION. Section 5. Construction of law. Nothing in [this act] may be construed to conflict with the provisions of 39-71-406."  
Renumber: subsequent sections

4. Page 6, line 10.  
Strike: "5"  
Insert: "6"

5. Page 6, line 13.  
Strike: "1993"  
Insert: "1994"

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_  
Gary C. Aklestad, Chairman

SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 415 (first reading copy -- white), respectfully report that SB 415 do pass.

DO PASS

Signed: \_\_\_\_\_  
Gary C. Aklestad, Chairman

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SENATE STANDING COMMITTEE REPORT

February 17, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 375 (first reading copy -- white), respectfully report that SB 375 be amended and as so amended do pass:

1. Title, line 9.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE"

2. Page 7, lines 15 and 16.

Following: "and" on line 15

Strike: "contracts for"

3. Page 7, line 19.

Following: "pay"

Strike: "during construction"

Following: "~~project~~"

Insert: "under the public works contract"

4. Page 7, line 25.

Following: "employed"

Strike: "on that"

Following: "~~project~~"

Insert: "under the public works"

5. Page 8.

Following: line 4

Insert: "NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 10. Applicability. [This act] applies retroactively, within the meaning of 1-2-109, to proceedings commenced prior to [the effective date of this act]."

AND AS AMENDED DO PASS

Signed: \_\_\_\_\_

Gary C. Aklestad, Chairman