

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Thomas E. Towe, Vice Chair, on March 28, 1991, at 7:05 a.m.

ROLL CALL

Members Present:

Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Steve Doherty (D)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: Richard Manning, Chair (D)

Staff Present: Tom Gomez (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: NONE.

EXECUTIVE ACTION ON HOUSE BILL 643

Amendments, Discussion, and Votes:

Tom Gomez explained amendments (HB091701.ATG).

Senator Blaylock moved amendments (HB091701.ATG). MOTION CARRIED UNANIMOUSLY.

Tom Gomez explained amendments (HB064302.ATG).

Senator Pipinich moved amendments (HB064302.ATG).

Senator Devlin commented when speaking of "down sizing"

there is no room for moving an individual or modernization.

Senator Towe asked if "down sizing" is defined.

Tom Gomez stated the language used is reduction in force at an institution. Reduction in force is a phrase found else where in the state code and has a common meaning.

Senator Towe asked if its common meaning would be one or two people as Senator Devlin suggests.

Senator Keating stated Boulder is scheduled for re-organization and reduction in force as a part of the overall program for the appropriate placement of the developmentally disabled. Boulder will retain approximately 110 to 130 clients; but there will be a reduction in force from approximately 450 to 330 employees. The entire program is for certification at Boulder. There is approximately a 33% turn-over. He explained there is a problem with certification because training is difficult.

Senator Lynch stated the administration is neutral on the bill; and originally were opposed to it.

Senator Keating told the Committee the hands of good administration is tied when reorganization or efficiencies are precluded. He stated for the most part employees are not laid off "willy-nilly". There is a frequent turn-over.

Senator Blaylock asked Mr. Gomez if the employees at Galen are let go what would these employees get under this language. Mr. Gomez told the Committee employees would receive preference for job openings in state institutions, departments or agencies; access to all announcement of state job vacancies; and if the employee went to another state agency they would receive a wage or salary which is higher or equivalent to the wage or salary of their previous position; retention of rights and benefits at prior job; relocation expenses paid if the employee had at least five years of service; and access to retraining and career development at the state's expense if the employee has had five years of service. If an individual had to leave the state and work at an institution they would receive relocation, access to retraining and career development, job counseling, vocational guidance, and continuation of employer contributions of health insurance for twelve months or until the employee is employed for the employee with five years or more service; and severance pay equal to 5% of their annual base wage.

Senator Devlin asked if the same would apply to an individual going to the private sector within the state. Senator Towe explained there were a separate provision on Page 3. Mr. Gomez pointed out amendment #9. He explained the sponsor reverted to the original version of the bill and struck the language "in the state". Therefore, if it is in the state or out

of the state, it does not matter.

The motion to amend (HB064302.ATG) CARRIED with Senator Aklestad, Senator Devlin, and Senator Nathe voting NO.

Tom Gomez explained amendments (HB064303.ATG) which were suggested by Laurie Ekanger of the Department of Administration.

Senator Lynch moved amendments (HB064303.ATG). MOTION CARRIED UNANIMOUSLY.

Senator Towe suggested amending Page 3, Line 3, after the word "if" insert "after a minimum period of unemployment of at least 30 days,". Senator Blaylock made motion to amend as suggested. MOTION CARRIED UNANIMOUSLY.

Senator Aklestad commented the amendments improved the bill but House Bill 643 is writing a statutory bargaining agreement. He stated if HB 643 would have been in effect as amended the privatization of Boulder would not have taken place. He asked to remind the Committee of the special legislation pertaining to schools where if an individual has an administrative position they will go back to teachers if it can be proved there is a financial burden. He stated "we are going exactly opposite in this piece of legislation with what we are trying to do at the schools". He commented "every business in the state that has gotten into trouble because of bargaining agreements or that with union that has come back in here for special compensation is completely contrary to this piece of legislation, whether it is the aluminum plant, whether its the railroad ...". He stated "we are writing things into this bill they couldn't live with".

Senator Lynch stated "all we're trying to do is to help some people who might need some help", and "this is a bill now that the administration can live with". He stated House Bill 643 will give individuals the assurance of being taken care of.

Senator Towe stated an individual who has had a job for 20 or 30 years is "entitled to some respect from the state that employees them".

Senator Aklestad under existing statutes and under existing bargaining agreements there are provision for those protections. He asked "what the guy on mainstreet has that's running a business; and he has to move or he goes broke?" He commented "there are not a bunch of statutes that are going to pay him from going from Plentywood, Montana to Minnesota". He pointed out this mainstreet business is providing jobs for the state without the benefit of statutes to assist him.

Senator Blaylock stated the Legislature has passed legislation which has helped every sector of our economy. There are subsidies, breaks, etc. Including such things as the help to the ethanol industry which reflects back on grain. He commented

when "all the farmers were going broke I voted for it, and helped some of my farmers down in my area to get arbitration between them and their bankers". He told the Committee "that is part of job, to help people".

Senator Keating told the Committee there should be an awareness among everyone no matter how they vote on HB 643. He commented "each time we put something like this in the codes, its another point of contention, another tool for somebody to utilize". He stated "if this language makes it into the codes and there is any kind of efficiency move taken in government to re-organize or down-size or move clients in the welfare area; somebody is going to use this as a argument before the Human Rights Commission that they have been unjustly treated". He told the Committee there will be an increase in the human rights cases.

Senator Towe commented human rights involves a discrimination on the basis of race, color, and creed. He stated he did not believe this would address that.

Recommendation and Vote:

Senator Lynch moved House Bill 643 BE CONCURRED IN as amended. MOTION CARRIED with Senator Aklestad, Senator Devlin, Senator Keating, Senator Nathe voting NO. Senator Lynch will carry House Bill 643 to the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 730

Amendments, Discussion, and Votes:

Senator Lynch moved amendments (HB073001.ATG). Tom Gomez explained the amendments. Motion FAILED by a Roll Call Vote with four (4) YES (Senator Doherty, Senator Lynch, Senator Pipinich, and Senator Towe); five (5) NO (Senator Aklestad, Senator Blaylock, Senator Devlin, Senator Keating, and Senator Nathe).

Senator Keating stated the agency bill based on population is arbitrary. He commented it does not lend itself to actual need or market place adjustments. The railroad is there to serve to public. He suggested the railroad would agree to restrictions on closure in a fair manner, but based on something other than the population. He asked Leo Berry to explain suggested language for restricting the closure on other factors. Leo Berry told the Committee the company objects to an artificial standard. He explained Tim Whalen had introduced a bill which was killed in the House. That bill had expanded the definition of public convenience and necessity; but was done in "a manner which was

incomprehensible". He explained the language Dave Brown has suggested has taken part of the Whalen bill. He told the Committee the meaning is not clear when speaking of "dividing safe, adequate, just, and reasonable rail service". He told the Committee he was "not sure what just and reasonable rail service is". He explained if the artificial standard comes out of the bill he "could reluctantly go along with the amendment".

Senator Towe explained Mr. Berry was suggesting striking the underscored language in sub (1); and adopting the amendment (HB073001.ATG).

Senator Keating moved the suggested amendment by Mr. Berry. Mr. Berry explained there was a depot (the only one in the county) in Terry with an approximate 500 population. The railroad sought closure through the Public Service Commission. Four individuals attended the hearing and informed the PSC of their use of the depot. The Public Service Commission denied the closure. The agency was kept open based on use and not on an arbitrary reason. In some areas there is a population of 2000 or an agency in the county. The people "are driving by the agency or by the depot and going elsewhere with their products and their requests for services".

The Keating motion to amend CARRIED by a Roll Call Vote with six (6) YES (Senator Aklestad, Senator Blaylock, Senator Doherty, Senator Devlin, Senator Keating, and Senator Towe); three (3) NO (Senator Lynch, Senator Nathe, and Senator Pipinich).

Recommendation and Vote:

Senator Lynch moved House Bill 730 BE CONCURRED IN as amended. MOTION CARRIED with Senator Devlin voting NO. Senator Bob Brown will carry on the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 875

Amendments, Discussion, and Votes:

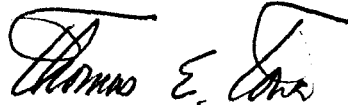
Senator Doherty cast a YES vote on an amendment motion (HB087501.ATG) of March 26, 1991. MOTION CARRIED.

Recommendation and Vote:

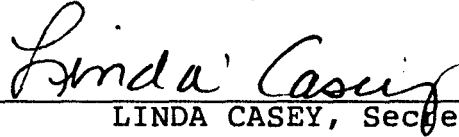
Senator Lynch moved House Bill 875 BE CONCURRED IN as amended. MOTION CARRIED with Senator Aklestad and Senator Keating voting NO. Senator Blaylock will carry House Bill 875 on the Senate floor.

ADJOURNMENT

Adjournment At: 7:55 a.m.



SENATOR THOMAS E. TOWE, Vice Chairman



LINDA CASEY, Secretary

TET/llc

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 3/28/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING			E
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		
Senator Doherty	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
April 1, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 643 (third reading copy -- blue), respectfully report that House Bill No. 643 be amended and as so amended be concurred in:

1. Title, line 6.

Following: "PRIVATIZATION"

Strike: ", "

Insert: "OR"

Following: "REORGANIZATION"

Strike: ", "

Insert: "OF A STATE AGENCY"

Following: "CLOSURE OF"

Insert: "OR REDUCTION IN FORCE AT"

2. Title, line 7.

Following: "~~INSTITUTION~~"

Strike: "AGENCY"

Insert: "INSTITUTION"

3. Page 1, line 15.

Following: "AGENCY"

Insert: ", "

Following: "2-18-101"

Insert: ", but does not include the Montana university system"

4. Page 1, line 20.

Following: line 19

Insert: "(3) "Institution" means any of the institutions or facilities listed in 53-1-202."

Renumber: subsequent subsection

5. Page 1, line 25.

Following: "privatization"

Strike: ", "

Insert: "or"

Following: "reorganization"

Strike: ", "

Insert: "of an agency"

Following: "closure of"

Insert: "or reduction in force at"

6. Page 2, line 1.

Strike: "AGENCY"

Insert: "institution"

7. Page 2, line 9.

Following: "training"

Strike: "-- early retirement"

8. Page 2, line 11.

Following: "privatization"

Strike: ", "

Insert: "or"

Following: "reorganization"

Strike: ", "

Insert: "of an agency"

Following: "closure of"

Insert: "or reduction in force at"

9. Page 2, line 12.

Following: "institution"

Strike: "AGENCY"

Insert: "institution"

10. Page 2, line 15.

Following: "rights"

Strike: ", "

Insert: "and"

Following: "benefits"

Strike: ", and privileges"

11. Page 2, line 16.

Following: "including"

Strike: "i"

12. Page 2, lines 17 and 18.

Strike: subsection (i) in its entirety

13. Page 2, line 19.

Strike: "(ii)"

14. Page 2, line 23.

Following: "the"

Strike: "state's"

Following: "and"

Insert: "of the agency eliminating the position"

15. Page 3, line 3.

Following: "If"

Insert: ", after a period of unemployment of at least 30 days,"

Following: "seek"

Insert: "chooses to seek or"

16. Page 3, lines 3 and 4.

Following: "job" on line 3

Strike: "IN THE STATE"

17. Page 3, line 5.

Following: "privatization"

Strike: ","

Insert: "or"

Following: "reorganization"

Strike: ","

Insert: "of an agency"

Following: "closure of"

Insert: "or reduction in force at"

18. Page 3, line 6.

Following: "institution"

Strike: "AGENCY"

Insert: "institution"

19. Page 3, line 20.

Following: "employee's"

Insert: "annual"

20. Page 4, line 6.

Following: line 5"

Insert: "(3) The provisions of subsections (2)(a) through (2)(c) apply for a period of no more than 24 months following termination of employment as a result of the privatization or reorganization of an agency or closure of or reduction in force at an institution."

Renumber: subsequent subsection

21. Page 4, line 11.
Following: "privatization"
Strike: ", "
Insert: "or"

22. Page 4, line 12.
Following: "reorganization"
Strike: ", "
Insert: "of an agency"
Following: "closure of"
Insert: "or reduction in force at"
Following: "institution"
Strike: "AGENCY"
Insert: "institution"

Signed: _____

Thomas E. Towe
Thomas E. Towe, Vice Chairman

JA 4-1-91
Amd. Coord.

51-04-1 11:30
Sec. of Senate

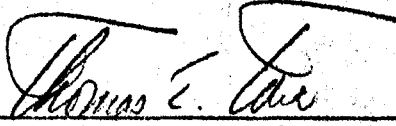
SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 730 (third reading copy -- blue), respectfully report that House Bill No. 730 be amended and as so amended be concurred in:

1. Title, lines 15 through 17.
Following: "AN ACT" on line 15
Strike: remainder of line 15 through "MORE" on line 17
Insert: "REVISING THE AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO ALLOW CLOSURE, CONSOLIDATION, OR CENTRALIZATION OF RAILROAD SHIPPING AND PASSENGER FACILITIES IF THE FACILITIES ARE NOT REQUIRED BY PUBLIC CONVENIENCE AND NECESSITY; REQUIRING THE COMMISSION, IN DETERMINING PUBLIC CONVENIENCE AND NECESSITY, TO CONSIDER ANY OTHER FACTORS AND INFORMATION IT CONSIDERS SIGNIFICANT AND NECESSARY TO PROVIDE SAFE, ADEQUATE, JUST, AND REASONABLE RAIL SERVICE"
2. Page 2, line 1.
Following: "~~1987~~"
Strike: "[the effective date of this act]"
Insert: "January 1, 1987"
3. Page 2, lines 5 through 16.
Following: "~~1987~~" on line 5
Strike: remainder of line 5 through "LESS" on line 16
Insert: "such facilities as were maintained and staffed on January 1, 1987"
4. Page 2, line 17.
Following: "However"
Strike: "Except as provided in subsection (1), if"
Insert: "If"
5. Page 3, line 5.
Following: "factors"
Insert: "and information, including station equipment, business forms, and documents, that"
6. Page 3, line 6.
Following: "significant"
Insert: "and necessary"
Following: "provide"
Insert: "safe,"
Following: "adequate"
Insert: ", just, and reasonable"

Signed: 
Thomas E. Towe, Vice Chairman

JMA 4-2-91
Ad. Coord.

SR 2/4
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1, 1991

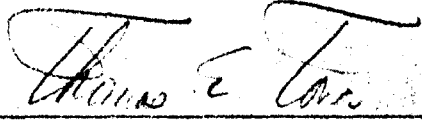
MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 875 (third reading copy -- blue), respectfully report that House Bill No. 875 be amended and as so amended be concurred in:

1. Page 1.

Following: line 23

Insert: "(5) Not less than 50% of the advisory council must consist of members who represent state employees, and not less than 30% of the council must be members of a labor organization covered under a collective bargaining agreement."

Signed: 

Thomas E. Towe, Vice Chairman

4/1 3-1-91
And. Coord.

SP 4-1 11:30
Sec. of Senate

680906SC.Sj1

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 3/28/91 House Bill No. 730 Time 7:40 AM

NAME	YES	NO
SENATOR AKLESTAD		X
SENATOR BLAYLOCK		X
SENATOR DEVLIN		X
SENATOR KEATING		X
SENATOR LYNCH	X	
SENATOR MANNING		
SENATOR NATHE		X
SENATOR PIPINICH	X	
SENATOR TOWE	X	
Senator Doherty	X	

Secretary _____

Chairman _____

Motion: HB073001.ATG amendments

MOTION FAILS

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 3/28/91 House Bill No. 730 Time 7:45 AM

NAME	YES	NO
SENATOR AKLESTAD	X	
SENATOR BLAYLOCK	X	
SENATOR DEVLIN	X	
SENATOR KEATING	X	
SENATOR LYNCH		X
SENATOR MANNING		
SENATOR NATHE		X
SENATOR PIPINICH		X
SENATOR TOWE	X	
Senator Doherty	X	

Secretary

Chairman

Motion:

~~Keating~~ Keating
Amendment

Adopt rejected amendment + strike bill

MOTION CARRIED