

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LABOR & EMPLOYMENT RELATIONS**

**Call to Order:** By Senator Towe, on January 5, 1993, at 1:08 P.M.

#### **ROLL CALL**

##### **Members Present:**

Sen. Tom Towe, Chair (D)  
Sen. Bill Wilson, Vice Chair (D)  
Sen. Gary Aklestad (R)  
Sen. Chet Blaylock (D)  
Sen. Jim Burnett (R)  
Sen. Tom Keating (R)  
Sen. J.D. Lynch (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Council  
Patricia Brooke, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: SB 15, SB 33  
Executive Action: None

#### **HEARING ON SB 15**

##### **Opening Statement by Sponsor:**

SENATOR BLAYLOCK introduced the bill and explained what it does. He stated that this bill affects only public contracts and that the majority of school districts have this already. The problem exists in the smaller school districts where a grievance procedure is not in place.

##### **Proponents' Testimony:**

Phil Campbell, Montana Education Association, stated that this bill will not be a change for most school districts and that it allows for a grievance procedure in all public school contracts which ends in final and binding arbitration. The schools that do not follow the grievance procedure sometimes require court

proceedings and cost thousands of dollars to the taxpayers and school districts. He noted that all state contracts have a grievance procedure already. He stated that part of the problem is that most schools include a grievance procedure but the ones who don't often require court proceedings. Campbell stated that with a grievance procedure that ends in final and binding arbitration the parties enter into a contract and with the third party an arbitrator, rather than the court, local control would be ensured. He argued that local control does not happen in court proceedings that take up much time.

**Terry Minow, Montana Fed of Teachers/State Employees**, stated that final arbitration works and that she would like it extended to all public employees.

**Tom Schneider, Montana Public Employees Association**, Spoke in favor of the bill.

**Tom Foley, MT Council #9**, spoke in favor of the bill.

**Darrell Holzer, Montana State AFL-CIO**, stated that the AFL-CIO is in support of this bill.

#### Opponents' Testimony:

**Bruce Moerer, Montana School Board Association**, stated that they feel "binding arbitration should be negotiated locally and if they agree to binding arbitration locally it should be included in the contract, it should not be mandated by the state. School trustees are charged by the constitution with supervision and control of their local schools. The term local control is not some sort of figment of the imagination or some sort of catch word but it is found in the constitution and if the legislature changes this it would turn over the resolution of these disputes to an outside third party. Most trustees feel more comfortable that the dispute is resolved by the court rather than some outside third party." Moerer went on to say that many of the smaller school districts have worked hard to keep the grievance procedure out of the contracts. Any change now would change the nature of the collective bargaining process and the legislature would change the relative bargaining strengths of either side.

**Don Waldron, Montana Rural Education Association**, stated that if binding arbitration is working it will filter down to other schools.

**Lauren Frazier, School Administrators**, stated that binding arbitration is a local option and should remain that way.

#### Informational Testimony:

None

Questions From Committee Members and Responses:

SENATOR AKLESTAD asked SENATOR BLAYLOCK to clarify the difference between final arbitration and the grievance procedure and which does the bill address. SENATOR TOWE said that the bill seems limited to the grievance procedure and does not cover matters after the contract expires. PHIL CAMPBELL, Montana Education Association, confirmed that this was intended. SENATOR KEATING asked for the definition of grievance procedure. EDDYE MC CLURE clarified the term for the committee. SENATOR TOWE stated that the grievance procedure covers any dispute in the contract. SENATOR KEATING asked PHIL CAMPBELL for clarification of how an arbitrator is taken to court. PHIL CAMPBELL stated that an arbitration award is only taken to court over procedure, not because you disagree with the final decision.

Closing by Sponsor:

SENATOR BLAYLOCK stated that he has been close to a strike and he sees need for a grievance procedure in contracts. He is not confident it can filter over to smaller school districts and he closed by urging favorable consideration.

HEARING ON SB 33

Opening Statement by Sponsor:

SENATOR DOHERTY opened by stating that this bill provides that there be no charge to employers for unemployment compensation that is a result of required military service. This bill is a result of Desert Storm. Employers were called to duty, employees were laid off and requested unemployment compensation, and, as a result, the employer was charged.

Proponents' Testimony:

David Johnson, explained his personal situation when called to duty for Desert Storm where his employees were put on reduced time. He was charged unemployment compensation and explained to the committee the legal appeal process he went through to try to challenge the charge. He asked for support of the bill.

Hal Manson, American Legion, stated that America depends upon reserves, many of whom are professionals. Unemployment compensation is important but when higher premiums are not caused by the employer than the employer's rate should not be increased. He stated that this bill would not jeopardize the existing unemployment fund at all. Relief could not be given for charges caused by Desert Storm because the law would not allow it.

**Jim Madison, Reserve Officers Assn.**, spoke in favor of the bill. Mr. Madison noted that this issue was voted the number one issue for the Reserve Officers Association.

**Dick Baumberger, Disabled American Veterans**, stated he is in favor of the bill.

**George Poston, United Veterans Committee**, stated he is in favor of the bill

**Roger Hagan, Enlisted Association of the National Guard**, submitted a written testimony(Exhibit 1).

**Opponents' Testimony:**

None

**Informational Testimony:**

None

**Questions From Committee Members and Responses:**

SENATOR KEATING asked if the bill will deny anyone benefits. SENATOR DOHERTY answered no. SENATOR AKLESTAD asked what fiscal impact would occur as a result of the bill. SENATOR DOHERTY answered that the unemployment insurance division said that minimal costs, if any, would result from passage of the bill. The rates would continue and there would be no affect on the fund.

SENATOR AKLESTAD noted that a drain on the fund seemed inevitable. JOANNE LOUGHNEY-FINSTAD, UNEMPLOYMENT INSURANCE DIVISION, stated that the bill would have a very minimal impact on the fund.

SENATOR AKLESTAD asked DAVID JOHNSON approximately how much in retroactive funds would he be entitled to. DAVID JOHNSON answered that he had been charged approximately \$700 and that his rate had gone from one to five percent.

SENATOR BLAYLOCK stated that he was in favor but uneasy about being too confident about the security of the fund.

SENATOR TOWE asked SENATOR DOHERTY about the use of the phrase "self-employed". What is its definition in this bill? The differences of a professional corporation, sole proprietorship, and self-employed were discussed. SENATOR TOWE stated that professional corporations would be excluded in this bill. CHUCK HUNTER, DEPARTMENT OF LABOR AND INDUSTRY, stated that the bill addresses only self-employed, and would not apply to incorporated individuals.

SENATE LABOR & EMPLOYMENT RELATIONS COMMITTEE

January 5, 1993

Page 5 of 5

SENATOR AKLESTAD noted that individuals are sometimes incorporated and maybe should be allowed the same protection as the self-employed person.

SENATOR DOHERTY stated that it probably is not fair to small corporations and he would consider amending the bill.

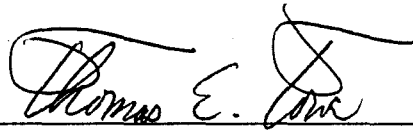
SENATOR KEATING asked if there is nomenclature for sole proprietor and professional corporations.

Closing by Sponsor:

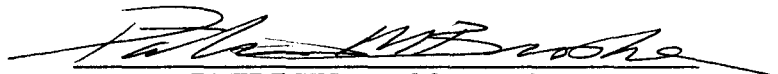
SENATOR DOHERTY closed with an appeal for this legislation.

ADJOURNMENT

Adjournment: 2:03 P.M.



SEN. TOM TOWE, Chair



PATRICIA BROOKE, Secretary

TET/PMB

## ROLL CALL

SENATE COMMITTEE LABOR

DATE 1/5/93

[illegible]

FO8

Attach to each day's minutes

# ENLISTED ASSOCIATION OF THE NATIONAL GUARD



Paul E. Heppner, President

P. O. BOX 5284

## STATE OF MONTANA

Helena, Montana 59604

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1 eg 1

DATE 1/6/93

BILL NO. SB 33

6 January 1993

TO: SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

[WRITTEN TESTIMONY ON SB 33 - DOHERTY]

Mr. Chairman and members of the committee, I wish to express my gratitude to you for allowing our Association the opportunity to submit testimony on this issue. Our Association represents the enlisted members of the Montana National Guard, both Army and Air, and we are pleased to testify to this committee as a proponent of this bill.

It is no secret that the ongoing build-down of our national defense forces has impacted and continues to impact the missions of the National Guard and Reserve. Likewise, the missions of the Montana National Guard as a state militia continue to change and grow. It is due to this ever increasing dependence on the National Guard and Reserve that legislative bills, such as this one, become necessary.

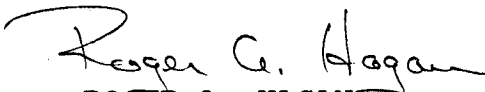
Prior to Desert Shield/Desert Storm the need for this legislation was not obvious. I am sure that there will be additional situations of this sort that will surface as we, as a National Guard and Reserve force, become more actively utilized. Some of

these situations we can predict and proactively seek remedy. Others, such as this unemployment issue, must be experienced first and addressed later.

Our Association supports this initiative. We believe that this administrative correction will signal to the men and women of the National Guard and Reserve that our state recognizes the importance of their service and the voluntary nature of that service. We are unable to confirm the number of employers this may have affected since August of 1990. It is also impossible to project the future impact, should this change be formalized.

The amendments that were discussed in reference to private corporations and partnerships appear to be viable clarifications of the intent of this bill. We are also in support of the principle of those amendments.

Again, on behalf of the men and women of the Enlisted Association of the National Guard of Montana, I would like to thank the committee for the opportunity to provide testimony on this issue. I can be contacted for further reference on this bill or other National Guard matters at my home phone, 449-8795.

  
ROGER A. HAGAN

MSGT, MT NG

Past President, EANGMT



DATE January 05 93

SENATE COMMITTEE ON SB-33 + SB15 Labor and

BILLS BEING HEARD TODAY: Empls

Name	Representing	Bill No.	Check One	
			Support	Oppose
Hal Hanson	American Legion	SB33	✓	
Dick Baumbach	DAV	"	✓	
<del>James Madison</del>	Reserve Officers Assn	SB33	✓	
<del>James Schneider</del>	MAPEA	SB15	✓	
Phil Campbell	MEA	SB15	✓	
Bruce W. Moerer	ASBA			X
George Postow	United Veterans Com.	SB.33	✓	
Don Waldron	MREA	SB15		✓
Darrell Holzer	MT ST. AFL-CIO	SB15	✓	
Tom G. Foley	MT Council #9	SB15	✓	
Nolan Trahan	SAM			✓
Robert Otter	Supt West B.	SB15		✓
Terry Minow	MT Fed of State Teachers	SB15	✓	
Paul DeLune	self Empl	SB33	✓	

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY