

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on January 8, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Daryl Toews (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

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

Committee Business Summary:

Executive Action: SB 24

EXECUTIVE ACTION ON SB 24

Discussion:

Senator Lynch announced Senator Blaylock was not available to present SB 24. Phil Campbell stood in Senator Blaylock's place in the discussion of the amendments proposed by the Human Rights Commission and said Senator Blaylock did not approve of the completed amendments.

Phil Campbell, Montana Education Association (MEA), stood before the committee and stated he and Ann MacIntyre, Administrator of

the Human Rights Commission had come to an agreement on most of the amendments. In paragraph one, Mr. Campbell asked the Committee strike the word "public" and insert "bona fide". He asked the same be done in the second paragraph. On page two of the amendments, Ann MacIntyre asked the Committee add section 49-3-103, which was not currently part of the bill. Mr. Campbell stated he had no objections to adding this section, except Ms. MacIntyre ask they strike the words "or private", and Mr. Campbell would like to leave it in. This section is in the chapter of the Government Code of Fair Practices. Mr Campbell felt the language which has been in the Code since 1975 should not be dealt with at this time.

Ann MacIntyre, Administrator for the Human Rights Commission, agreed with the first changes brought before the Committee. On the second page of the amendments, Ms. MacIntyre wanted to clean up the language by eliminating "or private". Under chapter three provisions, the law does not apply to private employers, it only applies to public employers. Provisions on the bill on pages 4-6 made the exception of private employers.

Bart Campbell, Legislative Council, stated he agreed with Ann on the subject of eliminating "or private" and the language is superfluous. The elimination of the phrase would simply clarify the bill.

Senator Lynch asked if Senator Blaylock felt strongly about changing the language. Phil Campbell stated Senator Blaylock felt the problem which needed to be solved was the problem with the insurance and not the language. Mr. Campbell, speaking for Senator Blaylock, stated if the Committee struck the language, it would look like the private employers are being exempted from the exemptions, and the issue would cloud the intent of the bill.

Senator Christiaens addressed Ann MacIntyre and stated he wanted to leave the private employer in the amendments to clarify it would not exempt private employers. Ms. MacIntyre rebutted, saying nothing in the section effects any private employer in any way.

Bart Campbell, Legislative Council addressed Ann and asked if the changes in SB 24 should fall under the title of the Montana Human Rights Act, and if it would be a broad enough title. Ann stated she felt the only change necessary was on line seven, and there was a need to change the word "act" to "laws".

Senator Gage asked some questions to clarify the issue for himself since he had missed a lot of the meeting on January 6. Ms. MacIntyre and Mr. Lynch helped to clarify the issue.

Motion/Vote:

Senator Christiaens moved to AMEND SB 24. Motion CARRIED UNANIMOUSLY.

SENATE BUSINESS & INDUSTRY COMMITTEE

January 8, 1993

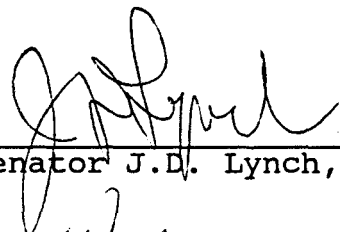
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Motion/Vote:


Senator Gage moved SB 24 DO PASS AS AMENDED. Motion CARRIED 11 to 1 with Senator Klampe voting NO.

ADJOURNMENT

Adjournment: 10:16 a.m.



Senator J.D. Lynch, Chair



Kristie Wolter, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 1/8/93

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	/		
Senator Christaens	/		
Senator Brusti-Maus	/		
Senator Gage	/		
Senator Hager	/		
Senator Harding	/		
Senator Kennedy	/		
Senator Klampe	/		
Senator Koehnke	/		
Senator Mesaros	/		
Senator Rea	/		
Senator Toewls	/		
Senator Wilson	/		

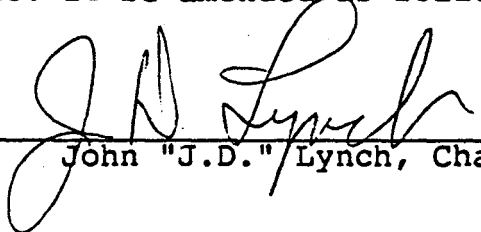
SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 8, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration Senate Bill No. 24 (first reading copy -- white), respectfully report that Senate Bill No. 24 be amended as follows and as so amended do pass.

Signed:


John "J.D." Lynch, Chair

That such amendments read:

1. Title, line 7.

Following: "RIGHTS"

Strike: "ACT"

Insert: "LAWS"

2. Title, line 8.

Strike: "AND"

Following: "49-2-403,"

Insert: "AND 49-3-103,"

3. Page 1, line 20.

Following: "dependents."

Strike: the remainder of lines 20 through 23 in their entirety

Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

4. Page 4, line 15.

Following: "(6)"

Strike: lines 15 through 18 in their entirety

Insert: "The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without dependents or with fewer dependents."

5. Page 6, line 15.

Following: "(5)"

Strike: lines 15 through 18 in their entirety

Insert: "It is not a violation of the prohibition against marital status discrimination in this section for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

6. Page 7, line 7.

Following: "(3)"

Strike: lines 7 through 10 in their entirety

Insert: "It is not a violation of the prohibition against marital status discrimination in this section for an employer to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

7. Page 7.

Following: line 22

Insert: "Section 6. Section 49-3-103, MCA, is amended to read:

"49-3-103. Permitted distinctions. (1) Nothing in this chapter prohibits any public or private employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual;
or

(c) from discharging or otherwise disciplining an individual for good cause; or

(d) from providing greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."

Renumber: subsequent section

-END-

Amendments to Senate Bill No. 24
First Reading Copy

Requested by Senator Blaylock
For the Committee on Business and Industry

Prepared by Bart Campbell
January 8, 1993

1. Title, line 7.
Following: "RIGHTS"
Strike: "ACT"
Insert: "LAWS"

2. Title, line 8.
Strike: "AND"
Following: "49-2-403,"
Insert: "AND 49-3-103,"

3. Page 1, line 20.
Following: "dependents."
Strike: the remainder of lines 20 through 23 in their entirety
Insert: "The laws prohibiting discrimination on the basis of
marital status in Title 49 do not prohibit bona fide group
insurance plans from providing greater or additional
contributions for insurance benefits to employees with
dependents than to employees without dependents or with
fewer dependents."

4. Page 4, line 15.
Following: "(6)"
Strike: lines 15 through 18 in their entirety
Insert: "The laws prohibiting discrimination on the basis of
marital status in Title 49 do not prohibit bona fide group
insurance plans from providing greater or additional
contributions for insurance benefits to employees with
dependents than to employees without dependents or with
fewer dependents."

5. Page 6, line 15.
Following: "(5)"
Strike: lines 15 through 18 in their entirety
Insert: "It is not a violation of the prohibition against marital
status discrimination in this section for an employer or
labor organization to provide greater or additional
contributions to a bona fide group insurance plan for
employees with dependents than to those employees without
dependents or with fewer dependents."

6. Page 7, line 7.
Following: "(3)"
Strike: lines 7 through 10 in their entirety
Insert: "It is not a violation of the prohibition against marital
status discrimination in this section for an employer to
provide greater or additional contributions to a bona fide

group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents."

7. Page 7.

Following: line 22

Insert: "Section 6. Section 49-3-103, MCA, is amended to read:

"49-3-103. Permitted distinctions. (1) Nothing in this chapter prohibits any public ~~or private~~ employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than age;

(b) from observing the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this chapter, except that an employee benefit plan may not excuse the failure to hire any individual;
~~or~~

(c) from discharging or otherwise disciplining an individual for good cause-; or

(d) from providing greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents.

(2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a violation of this chapter."

Renumber: subsequent section