

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LABOR & EMPLOYMENT RELATIONS**

**Call to Order:** By Tom Nelson, on January 19, 1993, at 3:05 p.m.

**ROLL CALL**

**Members Present:**

Rep. Tom Nelson, Chair (R)  
Rep. Gary Feland, Vice Chair (R)  
Rep. Steve Benedict (R)  
Rep. Vicki Cocchiarella (D)  
Rep. Jerry Driscoll (D)  
Rep. Alvin Ellis (R)  
Rep. Pat Galvin (D)  
Rep. Norm Mills (R)  
Rep. Bob Pavlovich (D)  
Rep. Bruce Simon (R)  
Rep. Carolyn Squires (D)  
Rep. Bill Tash (R)  
Rep. Rolph Tunby (R)  
Rep. Carley Tuss (D)

**Members Excused:** Representative Sonny Hanson, and Representative Tim Whalen.

**Members Absent:** none

**Staff Present:** Susan Fox, Legislative Council  
Cherri Schmaus, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 174  
Executive Action: HB 73, HB 174

**HEARING ON HB 174**

**Opening Statement by Sponsor:**

REP. BOB CLARK, HD 31, Golden Valley, sponsor, opened on HB 174 by stating that this bill will allow police officers and sheriff deputies to be covered by a collective bargaining agreement to appeal disciplinary action pursuant to grievance procedure contained in a collective bargaining agreement.

In 1991, there was a bill that was similar to this one, but it

only affected the highway patrol. This bill did pass and they have had no problems with this bill so far. He stated that the reason he was here today is to make sure the same rights are available to police officers and sheriff deputies.

He referred to the amendment page and read the correction.

(EXHIBIT #2) He stated that this bill is a good piece of legislation and he turned it over to the proponents.

**Proponents' Testimony:**

**Tom Schneider, Montana Public Employees Association**, started his testimony by giving some information on the background situation of the bill and where it came from.

In 1974, the state passed a Collective Bargaining Act for all state employees and local government employees. This act gave everyone the right to negotiate a grievance procedure which could or could not end up in binding arbitration depending on what was being negotiated. At that time there had already been statutes dealing with highway patrol officers, police officers and sheriff deputies. These laws gave them the right to appeal a discipline or a discharge to the district court. Because this was statutory law, the Collective Bargaining Act did not allow those three groups of people to negotiate a grievance procedure dealing with discipline and discharge because the law was clear that they went to the district court. Some problems arose by taking these cases to district court. They especially had problems with the highway patrol. The problem with district courts is that they are overcrowded and they are not set up to deal with determination or disciplinary actions. Furthermore, everyone else was going to arbitrators and they just thought it would be cleaner for the highway patrols to go through a grievance process to arbitration. Arbitration was tried in 1991 and it is in the contract with the highway patrol. This has worked well so far, and management doesn't have any objections to passing this bill today.

In the last two years there have been similar problems in the police department. This bill doesn't say that management must negotiate a grievance. This bill just allows them to if they wish. Nothing is mandatory, it just takes away the old prohibitions. If HB 174 passes, they have the right to decide on a grievance. If they choose not to, they still go to the district court.

The district court is overburdened with other things. Furthermore, in court anyone can appeal. District court is not timely, is costly and not in the best interest of either side. All of the employees can file a grievance; however, it goes through a specific process, through binding arbitration, and then the arbitrator makes a final decision. Either the person was disciplined properly or they were not or they were fired properly or they were not. One case, one hearing, one decision and then the case is over. This process is much cleaner because

arbitrators are trained to deal with discipline. Furthermore, all this bill will do is allow management and the union to sit down and decide if this is the process they want to use. If this is the process they want to use, they can put it in the contract and have the legal right to do it. He handed in written testimony (EXHIBIT #1)

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. PAVLOVICH asked the sponsor about the amendment and if there was a conflict. He further stated that he feels it should also include the words chief executive because that is what they are called in Butte. Rep. Clark stated that chief executive should be added to the amendments.

CHAIRMAN NELSON asked the sponsor if because the cases now go to district court if the grievance procedure is done or if there is an appeal process or if the case is just closed? Rep. Clark answered that nothing will change what is currently in place.

Closing by Sponsor:

REP. CLARK closed on HB 174. He stated that he supports this bill because there is no fiscal note and no cost. Furthermore, if appeals do go to court, it costs the union members and the government lots of money. These costs are paid with tax dollars. Passing this bill will save money.

EXECUTIVE ACTION ON HB 174

Motion: REP. PAVLOVICH MOVED HB 174 DO PASS.

Motion/Vote: REP. PAVLOVICH MOVED TO ADOPT THE AMENDMENT. REP. PAVLOVICH MOVED HB 174 DO PASS AS AMENDED. Question was called. A voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON HB 73

Motion: REP. SQUIRES MOVED HB 73 DO PASS.

Discussion:

CHAIRMAN NELSON went over each amendment separately with the committee.

REP. BENEDICT stated that although it looks like this bill will only cover summer employment, he stated that he sees a few problems with amendment #5, line 6, page 2. He feels the amendments should be split.

**REP. DRISCOLL** stated that with these amendments if a person has a written contract, they can't get unemployment benefits. Furthermore, if these people don't send in a card every two weeks, they don't get any payment either. If this amendment is accepted, these employees could still receive a contract from their employers.

**REP. BENEDICT** stated he is against HB 174.

**REP. TUNBY** asked **REP. DRISCOLL** to explain the amendments.

**REP. DRISCOLL** stated that prior to 1987, people who worked for the schools could get money during their Christmas vacation. The other amendments just allow these school employees to receive benefits during the summer months.

**Susan Fox, Legislative Council**, stated that by striking out section 2, it returns it back to what the existing language is now. This does not allow any unemployment insurance due in emergency closure.

**REP. BENEDICT** asked Susan Fox if the school closes by declaration of an emergency, if the PIR date lost during the closure needs to be rescheduled to meet the minimum requirements for pupil instruction days that a school district must conduct during the school year. He asked if we are getting away from the preview of the bill if we strike out section 2? **Susan Fox** stated that this striking of section 2 means no new changes.

No further questions were asked. **REP. BENEDICT** asked that the motion **REP. SQUIRES** made earlier be carried. **REP. SQUIRES** made a motion for the bill to pass as amended.

**REP. SIMON** stated that he talked to the Department after the committee hearing on HB 73. He referred to the bright yellow fiscal note that the department had handed out with HB 73. He also stated that he never received this revised copy of the Fiscal Note; furthermore, he asked that executive action be taken on this bill at a later date.

**REP. DRISCOLL** stated that regardless of the fiscal note, these people are only making \$4, \$5 and \$6 per hour and work less than 40 hours per week. These employees are the working poor. He then stated as a construction worker, he always gets unemployment because he knows how to work the system. He stated that anyone could get unemployment every other day if they knew how to use the system. He referred to the statement by Jensen about the UI trust fund on page 3, paragraph 6 contained in the 12 January 1993 minutes. These minutes summarized the informational briefing by the Department of Labor on that date. During the briefing, Jensen stated that the employers paid increased insurance and the employees received decreased benefits. **Driscoll** stated that school district #2 was at 4.5 percent and now it is at .2 of 1 percent payroll unemployment tax. They received a big

cut. The total tax that school district #2 paid was \$43,000 in the 1992 calendar year. He tried to get some figures to confirm his belief that there has been more paid in than paid out since 1983; however, he was not able to receive this information.

REP. DRISCOLL stated that the tax rate will go up anyway. Passing this bill won't raise this. The real issue is what right and what is wrong.

REP. PAVLOVICH stated that it was amazing how much the department stated that they paid out and how much everyone says they receive in benefits. The department's figures are twice as high.

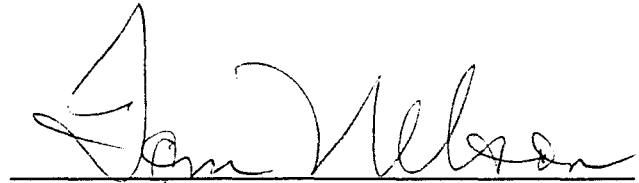
REP. DRISCOLL stated that the benefits paid vary with different wages. He stated that 49 percent of your average wage is the amount of benefits you will receive.

REP. BENEDICT agreed with REP. DRISCOLL and stated that he just wanted to get this bill over with.

Motion/Vote: REP. BENEDICT MOVED TO ADOPT THE AMENDMENTS. REP. BENEDICT MOVED HB 73 DO PASS AS AMENDED. Question was called. Role call vote was taken. The motion failed with a tie vote of 8 to 8 causing the bill to remain in the committee until a later date. This bill can be brought up again at anytime.

**ADJOURNMENT**

**Adjournment:** Chairman Nelson adjourned the meeting at 3:45 p.m.

A handwritten signature in cursive script, appearing to read "Tom Nelson", written above a horizontal line.

TOM NELSON, Chair

A handwritten signature in cursive script, appearing to read "Cherrí Schmaus", written above a horizontal line.

CHERRI SCHMAUS, Secretary

TN/CS

HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

## ROLL CALL

DATE \_\_\_\_\_

1/19/93


[illegible]

HOUSE STANDING COMMITTEE REPORT

January 21, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House Bill 174 (first reading copy -- white) do pass as amended .

Signed:   
Tom Nelson, Chair

And, that such amendments read:

1. Page 2, line 19.

Following: "mayor"

Insert: ", city manager, or chief executive"

2. Page 3, line 6.

Following: "mayor"

Insert: ", city manager, or chief executive"

  
1-22-93  
12:50



HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

### ROLL CALL VOTE

DATE \_\_\_\_\_

**BILL NO.**

**NUMBER**

**MOTION:**

[illegible]

# HOUSE OF REPRESENTATIVES

LABOR

COMMITTEE

## ROLL CALL VOTE

DATE 1/26/93 BILL NO. 174 NUMBER \_\_\_\_\_

MOTION: Do pass as amended

NAME	AYE	NO
REP. TOM NELSON, CHAIRMAN	✓	
REP. GARY FELAND, VICE CHAIRMAN	✓	
REP. STEVE BENEDICT	✓	
REP. VICKI COCCHIARELLA	✓	
REP. JERRY DRISCOLL	✓	
REP. ALVIN ELLIS	✓	
REP. PAT GALVIN	✓	
REP. SONNY HANSON	✓	
REP. NORM MILLS	✓	
REP. BOB PAVLOVICH	✓	
REP. BRUCE SIMON	✓	
REP. CAROLYN SQUIRES	✓	
REP. BILL TASH	✓	
REP. ROLPH TUNBY	✓	
REP. CARLEY TUSS	✓	
REP. TIM WHALEN	✓	



*The Big Sky Country*

MONTANA HOUSE OF REPRESENTATIVES

GARY FRELAND,

PLEASE VOTE ME NO ON  
HB-73.

ALSO VOTE AS YOU  
SEE FIT FOR ANY OTHER  
ACTION

AS "Sonny" Hansen  
1/19/93



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## PUBLIC

## EMPLOYEES

## ASSOCIATION

EXHIBIT 1

DATE 2/19/93

HB 174

EXH #1

HOUSE LABOR

2/19/93

Janaury 19, 1993

TO: House Labor Committee

FROM: Thomas E. Schneider, Executive Director

SUBJECT: HB 174

With the passage of the Collective Bargaining Act in 1974 all public employees covered by the Act received the right to bargaining for a grievance procedure to resolve, among other things, discipline and discharge.

Police Officers, Deputy Sheriffs and Highway Patrol Officers already had the statutory right to appeal through the court system.

Through the years it has become apparent that the court system is not the place to resolve such grievances because of the work load of the court, never ending appeals and excessive amounts of time and expense involved.

The legislature in 1991 passed HB 232 sponsored by Rep. Clark which gave members of the Montana Highway Patrol the right to grieve and arbitrate discipline and discharge in lieu of going to court. The process has been accepted by both management and the employees.

Since that time similar problems have arisen in the Police Officer contracts and we now appeal with HB 174 to give Police Officers and Sheriff Deputies the same rights as all other public employees including Montana Highway Patrol Officers.

We feel that HB 174 will allow management and the employees the right to sit down at the bargaining table and set up a discipline and discharge relsoution which will relieve the court system and meet the needs of both parties.

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Western Region  
P.O. Box 4874  
Missoula, MT 59806  
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EXHIBIT # 2

Amendments to House Bill No. 174  
First Reading Copy

For the Committee on Labor

Prepared by Susan B. Fox  
January 19, 1993

1. Page 2, line 19.

Following: "mayor"

Insert: ", city manager, or chief executive"

2. Page 3, line 6.

Following: "mayor"

Insert: ", city manager, or chief executive"

EXHIBIT #2  
DATE ~~HOUSE LAST~~  
HB ~~2/11/93~~  
HB 174

LABOR COMMITTEE # BILL NO. 174  
DATE 1/19/93 SPONSOR(S) CLARK

**PLEASE PRINT**

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.