

MINUTES

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

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Tom Towe, on March 18, 1993, at 3:01 PM.

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: Eddy McClure, Legislative Council
Kelsey Chapman, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: HB 174, HB 287, HB 621, HB 617, HB 470,
HB 487

EXECUTIVE ACTION ON HB 174

Motion:

Senator Lynch moved HB 174 BE AMENDED (hb017401.avl).

Discussion:

Senator Lynch explained with the amendments the chief executive had authority to make a decision that could then either go to the Police Commission or binding arbitration if binding arbitration was in the collective bargaining agreement. He continued, stating that if the person chose to go to binding arbitration they foreclose any option of going to District Court beyond the

arbitration. The person would have the choice of going to District Court after the Police Commission upheld or denied the chief executive's decision.

Senator Aklestad asked Senator Lynch what the procedure would be if the police had no collective bargaining agreement. Senator Lynch answered if there was no collective bargaining agreement with binding arbitration in it, the officer would only have the choice of going to the Police Commission and District Court.

Senator Towe stated he thought the Police Commission was an important factor in society as a method of redressing the police if there was a problem. He continued, saying that the amendment would make it possible to bypass the Police Commission. He said this was a mistake because the public perception of redress against police misconduct would be destroyed. He said it would be best to let the mayor make a judgment on the ruling of the Police Commission. If the mayor makes a judgment that the parties involved do not like, then bring in binding arbitration. He said the concern of the Police Commission was not that the mayor increase the penalty due to the judgment of the Police Commission. He said it was not a good idea to bypass the commission.

Senator Lynch said when there was a collective bargaining agreement, the city must agree to the binding arbitration. If the city did not agree with binding arbitration, then the city would not put it in the collective bargaining agreement. He said HB 174 with the amendments was supported by the proponents and by the opponents of the original bill.

Senator Blaylock said Senator Lynch's amendment was a good compromise.

Senator Towe reiterated his thoughts that this amendment was not a good idea.

Vote:

The Motion CARRIED with Senator Burnett, Senator Aklestad, and Senator Towe voting NO. Senator Keating, Senator Lynch, Senator Blaylock, Senator Wilson voted YES. Amendments (hb017401.avl) were adopted.

Motion:

Senator Lynch moved HB 174 BE CONCURRED IN AS AMENDED.

Discussion:

Senator Aklestad asked Senator Lynch if with the amendment he thought that all the opponents were going to be satisfied. Senator Lynch answered this might not be completely true, but the opponents he had spoken to had agreed with the amended form of HB

174.

Senator Aklestad said he was not sure if the amendments made HB 174 any more acceptable.

Senator Lynch reminded Senator Aklestad that the amendments came from the opponents, the Billings police.

Vote:

The Motion FAILED with Senator Towe, Senator Keating, Senator Aklestad, and Senator Burnett voting NO. Senator Lynch, Senator Blaylock, and Senator Wilson voted YES and requested a Minority Report.

Motion\Vote:

Senator Keating moved HB 174 BE TABLED. The Motion FAILED with Senator Blaylock, Senator Lynch, Senator Wilson, and Senator Towe voting NO. Senator Keating, Senator Aklestad, and Senator Burnett voted YES.

Motion:

Senator Blaylock moved HB 174 BE NOT CONCURRED IN AS AMENDED.

Motion:

Senator Lynch made a substitute motion that HB 174 be referred to the Floor without recommendation.

Motion\Vote:

Senator Keating made a substitute motion that HB 174 BE NOT CONCURRED IN AS AMENDED. The motion CARRIED with Senator Keating, Senator Aklestad, Senator Burnett, and Senator Towe voting YES. Senator Blaylock, Senator Lynch, and Senator Wilson voted NO. Senator Lynch, Senator Blaylock, and Senator Wilson requested a Minority Report.

EXECUTIVE ACTION ON HB 287

Discussion:

Senator Towe explained the amendments (HB028703.AEM). He explained Item 1 would allow for a full due process hearing in a workers' compensation case. He said Item 2 addressed the concern that HB 287 would put a lien on personal property, which would cause problems with financial institutions.

Motion:

Senator Keating moved amendments to HB 287 (HB028703.AEM) BE ADOPTED. The Motion CARRIED UNANIMOUSLY.

Discussion:

Senator Aklestad voiced a concern about Item 1 of the amendments (HB028703.AEM). He said it seemed to change what the Montana Department of Labor and Industry held for jurisdiction over workers' compensation cases without HB 287. He asked for clarification.

Senator Towe clarified this would provide that after a person went through a hearing, DOLI could get a lien.

Vote:

The Motion to amend HB 287 (HB028703.AEM) CARRIED UNANIMOUSLY.

Motion:

Senator Keating moved DOLI amendments (Exhibit #1) BE ADOPTED.

Discussion:

Senator Towe questioned the amendments, saying the amendments already adopted (HB028703.AEM) had taken care of existing problems in the Bill.

He said the DOLI amendments should not be needed.

Vote:

The Motion to Adopt DOLI amendments (Exhibit #1) CARRIED UNANIMOUSLY.

Motion:

Senator Keating moved HB 287 BE CONCURRED IN AS AMENDED.

Discussion:

Senator Aklestad argued he did not like the ten years latitude given to DOLI to bring a judgment (page 20, line 19).

Senator Towe said that ten years was the time for which a judgment in Montana was valid. He said if a decision was a judgment, and treated as such, under existing law it would be valid for ten years.

Senator Keating asked if ten years was the statute of limitations. Senator Towe answered this was standard and if there was a different time in the Bill, it would be conflicting with state law. He added a lien against real property ceased after six years.

Senator Keating asked if on Page 2, line 14, providing for

specific claims expenditure code was taken out. Eddy McClure answered that Senator Lynch's amendment (adopted by the Committee on March 16, 1993) took this out of HB 287.

Senator Aklestad asked the Montana Department of Labor and Industry if the Department of Revenue still had statutory authority in the Bill and could perhaps collect debts in a better manner than DOLI.

Senator Towe answered that the section in the Bill that would allow the Montana Department of Labor and Industry to collect in the same manner as the Department of Revenue had been amended out because it would eliminate a hearing process.

Senator Keating asked Senator Towe if the statute of limitations was the same under the Department of Revenue. Senator Towe answered the statute of limitations for the Department of Revenue was five years to receive a judgment, then the judgment could stand for ten years.

Vote:

The Motion by Senator Keating that HB 287 BE CONCURRED IN AS AMENDED CARRIED with Senator Towe, Senator Keating, Senator Blaylock, Senator Lynch, Senator Burnett, and Senator Wilson voting YES. Senator Aklestad voted NO. Senator Keating was assigned to carry HB 287.

EXECUTIVE ACTION ON HB 621

Motion\Vote:

Senator Lynch moved HB 621 BE CONCURRED IN. The Motion CARRIED with Senator Towe, Senator Blaylock, Senator Lynch, and Senator Wilson voting YES. Senator Keating, Senator Aklestad, and Senator Burnett voted NO. Senator Lynch was assigned to carry HB 621.

EXECUTIVE ACTION ON HB 617

Discussion:

Senator Towe explained amendments to HB 617 (HB061701.AEM). He said he wanted to make sure the prison industries themselves could pay workers' compensation if they wanted. If the Montana Department of Labor and Industry paid the workers' compensation then there would be reimbursement.

Motion:

Senator Lynch moved to amend HB 617 (HB061701.AEM).

Discussion:

Senator Towe explained the amendments. He said the second amendment was to correct an erroneous code placed in HB 617. The benefits remain in the Bill, but the new section refers to the limitations on the benefits.

Senator Aklestad asked what the prison industry program was. Senator Towe answered that at the prison an industry program was being instituted under Federal law which would be federally certified. A large company may come and set up in the prison and pay the inmates to make products certified to sell in interstate commerce through the Federal Prison Industries Program.

Senator Aklestad asked if the company coming into the prison was the program. Senator Towe answered the company would come in and qualify for the program which is then certified by the federal government.

Vote:

The Motion that amendments (HB061701.AEM) be adopted CARRIED UNANIMOUSLY.

Motion\Vote:

Senator Keating moved HB 617 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY. Senator Beck was assigned to carry the Bill on the Senate Floor.

EXECUTIVE ACTION ON HB 470

Discussion:

Eddy McClure explained the amendments (hb047002.abc) (Forrester amendments).

Senator Towe asked if "knowingly" should be placed in such a spot in the amendment so that it means that the person who hired the contractor knew this contractor did not have workers' compensation coverage.

Senator Keating asked what MCA 45-2-101 defined. Eddy McClure answered it defined "knowingly".

Motion:

Senator Lynch moved HB 470 BE CONCURRED IN. He withdrew his motion.

Motion:

Senator Wilson moved to amend HB 470 (hb047002.abc).

Discussion:

Senator Towe reiterated his concern that "knowingly" was in the wrong place in the amendment.

Senator Keating asked what the amendment would do. Senator Keating said he thought what it would allow was for a person who knowingly hired a contractor without workers' compensation or who was not paying workers' compensation for a subcontractor to be fined \$1,000.00. Senator Towe clarified that this fine was based upon the discretion of the Montana Department of Labor and Industry.

Motion:

Senator Wilson withdrew his motion.

Motion:

Senator Lynch moved HB 470 be amended (HB047001.asf) ("Driscoll" amendments).

Discussion:

Senator Towe read the amendment. He said he did not think an employer or employee could get coverage comparable to workers' compensation, but that they should have the chance to get a policy that meets or exceeds the state standards.

Vote:

The motion to adopt amendments (HB047001.asf) CARRIED UNANIMOUSLY.

Motion:

Senator Lynch moved HB 470 BE CONCURRED IN AS AMENDED.

Discussion:

Senator Aklestad said he would like to try to address the "Forrester" amendments (hb047002.abc).

Senator Lynch said this set of amendments would raise legal complications on whether or not a person knew a contractor or subcontractor had workers' compensation.

Senator Towe said he agreed, but there were probably people who hired contractors saying they did not want to know if the person had coverage, but rather wanting the low bidder. The "Forrester" amendment would punish that activity.

Senator Aklestad asked for the definition of "knowingly" as

defined by statute.

Eddy McClure read the definition in MCA 45-2-101.

Senator Aklestad said without the amendment (hb047002.abc) he would interpret the Bill to mean that when a person hired a worker and the person did not have workers' compensation, knowingly or unknowingly, the person would be in legal trouble.

Senator Towe answered this was not true, because the amendment would provide for the punishment. He said that Page 3, line 19, HB 470 provides that any person representing himself to the public to be an independent contractor would be bound by the provisions of PLAN's 1, 2, or 3, or shall apply for an exemption for workers' compensation. Construction people cannot have an exemption from workers' compensation. The Bill without the amendment did not provide for fining the individual that hires the independent contractor.

Senator Keating said with the "Driscoll" amendments the independent contractor could be exempt from workers' compensation coverage requirements if proof of comparable coverage is shown.

Vote:

The Motion SB 407 BE CONCURRED IN AS AMENDED CARRIED with Senator Aklestad, Senator Keating, Senator Blaylock, Senator Lynch, Senator Wilson, and Senator Towe voting YES. Senator Burnett voted NO. Senator Towe was assigned to carry HB 407.

EXECUTIVE ACTION ON HB 487

Discussion:

Senator Towe explained HB 487 was a Constitutional Amendment that would go to the Floor of the Senate with the Committee's recommendation no matter what the Committee did.

Senator Lynch said a Constitutional Amendment could be Tabled. He continued he did not think the amendment was necessary. He told the Committee the Legislature had the right to set criteria and benefits for workers' compensation, and he thought HB 487 was meaningless.

Senator Towe said that the amendment had substance, but he did not favor the Bill. He said the employee was best protected as the law in Montana presently stood. He said Senator Lynch was right in that the Constitutional Amendment did not do anything.

Motion:

Senator Aklestad moved HB 487 BE CONCURRED IN.

Motion:

Senator Blaylock made a substitute motion that HB 487 BE TABLED.

Discussion:

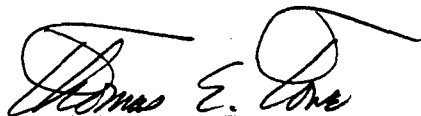
Senator Towe said there had been a suggestion to add the word "any" after "set" so the Bill should read "The Legislature may set any eligibility criteria." He said that this would make people turn against the Bill.

Motion:

The Motion that HB 487 BE TABLED CARRIED with Senator Towe, Senator Blaylock, Senator Lynch, and Senator Wilson voting YES. Senator Aklestad, Senator Keating, and Senator Burnett voted NO.

ADJOURNMENT

Adjournment: 3:53 PM



SENATOR THOMAS E. TOWE, Chair



KELSEY S. CHAPMAN, Secretary

TET/ksc

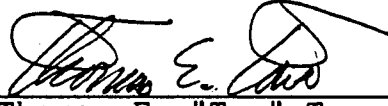
ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 19, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 174 (first reading copy -- blue), respectfully report that House Bill No. 174 be amended as follows and as so amended be not concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, line 9.

Following: "AGREEMENT;"

Strike: "AND"

Insert: "PROVIDING THAT IN A CITY OR TOWN WITH A POLICE COMMISSION, THE MAYOR, CITY MANAGER, OR CHIEF EXECUTIVE, RATHER THAN THE POLICE COMMISSION, HAS THE AUTHORITY TO TAKE DISCIPLINARY ACTION AGAINST A MEMBER OF THE POLICE FORCE; PROVIDING FOR APPEALS TO THE POLICE COMMISSION;"

2. Title, line 10.

Following: "7-32-2110,"

Insert: "7-32-4152, 7-32-4153, 7-32-4155, 7-32-4156, 7-32-4157, 7-32-4158, 7-32-4160, 7-32-4161,"

Following: "MCA"

Insert: "; AND REPEALING SECTIONS 7-32-4162 AND 7-32-4163, MCA"


3. Page 2, line 16.

Following: line 15

Insert: "Section 3. Section 7-32-4152, MCA, is amended to read:

"7-32-4152. Term and compensation of members of police commission. (1) The appointees to the police commission shall hold office for 3 years, and one such member must be appointed annually at the first regular meeting of the city council or commission in May of each year. However, a member serving on the commission during the hearing or deciding of a case an appeal under 7-32-4155 shall continue to serve on the commission for that case appeal until a decision has been made; a new member may not sit on the commission for such business.

(2) The compensation of the members of such a board shall must be fixed by the city council or commission, not to exceed \$10 per day or more than \$50 per month for any month for each member in cities of the first and second class."

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Senator Carrying Bill

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Section 4. Section 7-32-4153, MCA, is amended to read:
"7-32-4153. Meaning of word mayor. Wherever the word "mayor" is used in 7-32-4109, and 7-32-4160, through ~~7-32-4163~~ and ~~7-32-4161~~, it is intended to include "city manager", "city commissioner", or any other name or designation used to identify or designate the chief executive of any city or municipality."

Section 5. Section 7-32-4155, MCA, is amended to read:
"7-32-4155. Role of police commission in hearing and deciding charges against appeals brought by policemen. (1) The police commission ~~shall have the~~ has jurisdiction and it ~~shall be~~ is its duty to hear, ~~try,~~ and decide all charges appeals brought by ~~any person or persons against~~ any member or officer of the police department, ~~including any charge that such member or officer:~~

~~(a) is incompetent or has become incapacitated, by age, disease, or otherwise, to discharge the duties of his office;~~
~~(b) has been guilty of neglect of duty, of misconduct in his office, or of conduct unbecoming a police officer;~~
~~(c) has been found guilty of any crime; or~~
~~(d) whose conduct has been such as to bring reproach upon the police force who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.~~

(2) It is the duty of the police commission, at the time set for hearing ~~a charge against an appeal of~~ a police officer, to ~~forthwith proceed to hear, try,~~ and determine the charge appeal according to the rules of evidence applicable to courts of record in the state."

Section 6. Section 7-32-4156, MCA, is amended to read:
"7-32-4156. Charges Appeals to be in writing. Any charge An appeal brought against by any member of the police force must be in writing in the form required by the police commission, and a copy thereof must be served upon the ~~accused officer or member~~ mayor, city manager, or chief executive at least ~~15~~ 30 days before the time fixed for the hearing of ~~such charge~~ the appeal."

Section 7. Section 7-32-4157, MCA, is amended to read:
"7-32-4157. Rights of ~~accused policeman~~ police officer. The ~~accused shall have~~ appealing police officer has the right to be present at the ~~trial hearing~~ in person and by counsel and to be heard and to give and furnish evidence in his ~~defense~~ the police officer's appeal."

Section 8. Section 7-32-4158, MCA, is amended to read:
"7-32-4158. Police commission trials hearings open to public. All ~~trials shall~~ hearings must be open to the public."

Section 9. Section 7-32-4160, MCA, is amended to read:

"7-32-4160. Decision by police commission ~~veto power of mayor.~~ (1) The police commission ~~must shall,~~ after the conclusion of the hearing or trial, decide whether the charge was proven or not proven the appeal and shall must have the power, by a decision of a majority of the commission, to discipline, suspend, remove, or discharge any officer who shall have been found guilty of the charge filed against him sustain, modify, or overrule the disciplinary order of the mayor, city manager, or chief executive.

~~(2) Such action of the police commission shall, however, be subject to modification or veto by the mayor, made in writing and giving reasons therefor, which shall become a permanent record of the police commission; provided, however, that where and when the police commission decides the charge not proven, the decision is final and conclusive and is not subject to modification or veto by the mayor or to any review.~~

~~(3) Where the police commission decides the charge proven, the mayor, within 5 days from the date of the filing of such findings and decision with the city clerk, may modify or veto such findings and decision."~~

Section 10. Section 7-32-4161, MCA, is amended to read:

"7-32-4161. Enforcement of decision. ~~When a charge against a member of the police force is found proven by the board and is not vetoed by the mayor, the~~ The mayor must shall make an order enforcing the decision of the board or the decision as modified if modified by the mayor police commission. ~~Such~~ The decision or order ~~shall be~~ is subject to review by the district court of the proper county on all questions of fact and all questions of law.""

Renumber: subsequent section

4. Page 2, line 20.

Strike: "police commission or an order of the"

5. Page 2, line 25.

Following: "the"

Insert: "police commission. A final decision of the police commission may be appealed to the"

6. Page 3, line 3.

Following: "~~but no~~"

Insert: "The district court has jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force."

7. Page 3, lines 7 and 8.

Following: "commission" on line 7

Strike: remainder of line 7 through "EXECUTIVE" on line 8

8. Page 3, line 9.

Following: line 8

Insert: "NEW SECTION. Section 12. Repealer. Sections 7-32-4162
and 7-32-4163, MCA, are repealed."

-END-

MINORITY COMMITTEE REPORT

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 19, 1993

MR. PRESIDENT:

We, a minority of your committee on Labor and Employment Relations having had under consideration House Bill No. 174 (first reading copy -- blue), respectfully report that House Bill No. 174 be amended as follows and as so amended be concurred in.

Signed: *J. D. Lynch*
Senator John "J. D." Lynch

Signed: *Bill Wilson*
Senator William "Bill" Wilson

Signed: *Chet Blaylock*
Senator Chet Blaylock

That such amendments read:

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Strike: "AND"

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Senator Carrying Bill

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commission during the hearing or deciding of ~~a case~~ an appeal under 7-32-4155 shall continue to serve on the commission for that ~~case~~ appeal until a decision has been made; a new member may not sit on the commission for such business.

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(b) ~~has been guilty of neglect of duty, of misconduct in his office, or of conduct unbecoming a police officer,~~

(c) ~~has been found guilty of any crime, or~~

(d) ~~whose conduct has been such as to bring reproach upon the police force~~ who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.

(2) It is the duty of the police commission, at the time set for hearing ~~a charge against an appeal of a police officer,~~ to ~~forthwith proceed to hear, try,~~ and determine the ~~charge~~ appeal according to the rules of evidence applicable to courts of record in the state."

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"7-32-4158. ~~Police commission trials~~ hearings open to public. All trials shall hearings must be open to the public."

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Re-number: subsequent section

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6. Page 3, line 3.

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by any officer or member of the police force."

7. Page 3, lines 7 and 8.

Following: "commission" on line 7

Strike: remainder of line 7 through "EXECUTIVE" on line 8

8. Page 3, line 9.

Following: line 8

Insert: "NEW SECTION. Section 12. Repealer. Sections 7-32-4162
and 7-32-4163, MCA, are repealed.

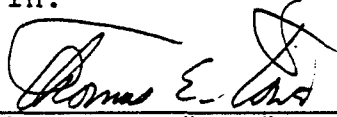
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 19, 1993

MR. PRESIDENT:


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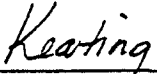
Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, page 2, lines 14 through 16.
Following: "MEDIATION;" on line 14
Strike: remainder of line 14 through "CODES;" on line 16
2. Page 20, line 12.
Strike: "The"
Insert: "After the due process requirements of 39-71-2401(2) and (3) are satisfied, the"
3. Page 20, line 17.
Following: "real"
Strike: "and personal"
4. Page 20, line 21 through page 21, line 4.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection
5. Page 36, line 14 through page 37, line 9.
Strike: section 20 in its entirety
Renumber: subsequent sections
6. Page 37, line 13.
Strike: "Sections"
Insert: "Section"
Strike: "AND 20"
Strike: "are"
Insert: "is"
7. Page 37, lines 15 and 16.
Strike: "sections" on line 15
Insert: "section"
Strike: "AND 20" on line 16

-END-


Amd. Coord.
n Sec. of Senate


Senator Carrying Bill

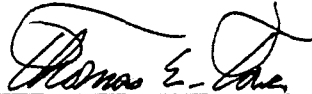
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 470 (first reading copy -- blue), respectfully report that House Bill No. 470 be amended as follows and as so amended be concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Title, line 8.
Strike: "AND"

2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 7, line 20.
Following: line 19
Insert: "NEW SECTION. Section 4. Applicability --
exemption. (1) [This act] does not apply to any
construction project bid by an employer prior to October 1,
1993.

(2) Notwithstanding any other provisions of [this act], an independent contractor may apply to the department of labor and industry for an exemption from [this act] in the manner provided for in 39-71-401 if the independent contractor can demonstrate, on a quarterly basis, proof of insurance that provides compensation and benefits providing coverage for medical claims and loss of wages resulting from injuries and occupational disease that is comparable, as defined by department rule, to the coverage provided under Title 39, chapters 71 and 72."

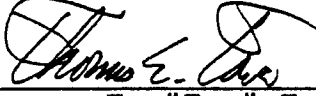
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 617 (first reading copy -- blue), respectfully report that House Bill No. 617 be amended as follows and as so amended be concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

That such amendments read:

1. Page 9, line 9.

Following: "(3)"

Strike: "Reimbursement"


Insert: "Premiums for workers' compensation and occupational disease coverage must be paid by the prison industries program or by the department of institutions. If the department pays the premium, reimbursement"

2. Page 12, line 14.

Strike: "53-1-301(3)"

Insert: "39-71-744"

-END-

 Amd. Coord.
Sec. of Senate

Beck
Senator Carrying Bill

611729SC.Sma


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 18, 1993

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 621 (first reading copy -- blue), respectfully report that House Bill No. 621 be concurred in.

Signed: 
Senator Thomas E. "Tom" Towe, Chair

M - Amd. Coord.
 Sec. of Senate

Sen. Lynch
Senator Carrying Bill

611728SC.Sma

ROLL CALL VOTE

SENATE COMMITTEE LABOR & EMPLOYMENT REL. **BILL NO.** HB 174

DATE 3-18-93 **TIME** 3:07 **A.M.** **P.M.**

NAME	YES	NO
Senator Wilson	X	
Senator Lynch	X	
Senator Towe		X
Senator Blaylock	X	
Senator Aklestad		X
Senator Keating	X	
Senator Burnett		X

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Lynch that HB 174 be
amended (HB017401.AVL).

ROLL CALL VOTE

SENATE COMMITTEE LABOR & EMPLOYMENT REL. BILL NO. HB 174

DATE 3-18-93 TIME 3:10 A.M. P.M.

NAME	YES	NO
Senator Wilson	X	
Senator Lynch	X	
Senator Towe		X
Senator Blaylock	X	
Senator Aklestad		X
Senator Keating		X
Senator Burnett		X

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Lynch that HB 174 BE
CONCURRED IN AS AMENDED.

ROLL CALL VOTE

SENATE COMMITTEE LABOR & EMPLOYMENT REL. BILL NO. HB 174

DATE 3/18/93 TIME 3:11 A.M. (P.M.)

NAME	YES	NO
Senator Aklestad	X	
Senator Keating	X	
Senator Blaylock		X
Senator Lynch		X
Senator Burnett	X	
Senator Wilson		X
Senator Towe		X

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Keating to TABLE HB 174. THE
MOTION FAILED

ROLL CALL VOTE

SENATE COMMITTEE LABOR & EMPLOYMENT REL. BILL NO. HB 470

DATE 3/18/93 TIME 3:45 A.M. (P.M.)

NAME	YES	NO
SENATOR J.D. LYNCH	X	
SENATOR JIM BURNETT		X
SENATOR GARY AKLESTAD	X	
SENATOR TOM KEATING	X	
SENATOR BILL WILSON	X	
SENATOR CHET BLAYLOCK	X	
SENATOR TOM TOWE	X	

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Senator Lynch to concur AS
AMENDED.

ROLL CALL VOTE

SENATE COMMITTEE LABOR & EMPLOYMENT REL. BILL NO. HB 487

DATE 3-18-93 TIME 3:51 A.M. P.M.

NAME	YES	NO
SENATOR J.D. LYNCH	X	
SENATOR JIM BURNETT		X
SENATOR GARY AKLESTAD		X
SENATOR TOM KEATING		X
SENATOR BILL WILSON	X	
SENATOR CHET BLAYLOCK	X	
SENATOR TOM TOWE	X	

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Blaylock that HB 487
be Tabled.

ROLL CALL VOTE

SENATE COMMITTEE LABOR & EMPLOYMENT REL. BILL NO. HB 621

DATE 3-18-93 TIME 3:29 A.M. P.M.

NAME	YES	NO
Senator Wilson	X	
Senator Lynch	X	
Senator Towe	X	
Senator Blaylock	X	
Senator Aklestad		X
Senator Keating		X
Senator Burnett		X

KELSEY CHAPMAN
SECRETARY

SENATOR TOM TOWE
CHAIR

MOTION: By Sen. Lynch that HB 621 BE CONCURRED
IN.

Amendments to House Bill No. 174
Third Reading Copy

Requested by Senator Lynch
For the Committee on Labor

Prepared by Valencia Lane
March 12, 1993

1. Title, line 9.

Following: "AGREEMENT;"

Strike: "AND"

Insert: "PROVIDING THAT IN A CITY OR TOWN WITH A POLICE
COMMISSION, THE MAYOR, CITY MANAGER, OR CHIEF EXECUTIVE,
RATHER THAN THE POLICE COMMISSION, HAS THE AUTHORITY TO TAKE
DISCIPLINARY ACTION AGAINST A MEMBER OF THE POLICE FORCE;
PROVIDING FOR APPEALS TO THE POLICE COMMISSION;"

2. Title, line 10.

Following: "7-32-2110,"

Insert: "7-32-4152, 7-32-4153, 7-32-4155, 7-32-4156, 7-32-4157,
7-32-4158, 7-32-4160, 7-32-4161,"

Following: "MCA"

Insert: "; AND REPEALING SECTIONS 7-32-4162 AND 7-32-4163, MCA"

3. Page 2, line 16.

Following: line 15

Insert: "Section 3. Section 7-32-4152, MCA, is amended to read:

"7-32-4152. Term and compensation of members of police
commission. (1) The appointees to the police commission shall
hold office for 3 years, and one ~~such~~ member must be appointed
annually at the first regular meeting of the city council or
commission in May of each year. However, a member serving on the
commission during the hearing or deciding of ~~a case~~ an appeal
under 7-32-4155 shall continue to serve on the commission for
that ~~case~~ appeal until a decision has been made; a new member may
not sit on the commission for ~~such~~ business.

(2) The compensation of the members of ~~such a~~ board shall
must be fixed by the city council or commission, not to exceed
\$10 per day or more than \$50 per month for any month for each
member in cities of the first and second class."

{ Internal References to 7-32-4152: None. }

Section 4. Section 7-32-4153, MCA, is amended to read:

"7-32-4153. Meaning of word mayor. Wherever the word
"mayor" is used in 7-32-4109, ~~and 7-32-4160, through 7-32-4163~~
~~and 7-32-4161~~, it is intended to include "city manager", "city
commissioner", or any other name or designation used to identify
or designate the chief executive of any city or municipality."

{ Internal References to 7-32-4153: None. }

Section 5. Section 7-32-4155, MCA, is amended to read:

"7-32-4155. Role of police commission in hearing and
deciding ~~charges against~~ appeals brought by policemen. (1) The
police commission ~~shall have the~~ has jurisdiction and it ~~shall be~~

is its duty to hear, ~~try,~~ and decide all charges appeals brought by any ~~person or persons~~ against any member or officer of the police department, ~~including any charge that such member or officer:~~

~~(a) is incompetent or has become incapacitated, by age, disease, or otherwise, to discharge the duties of his office;~~
~~(b) has been guilty of neglect of duty, of misconduct in his office, or of conduct unbecoming a police officer;~~
~~(c) has been found guilty of any crime; or~~
~~(d) whose conduct has been such as to bring reproach upon the police force who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.~~

(2) It is the duty of the police commission, at the time set for hearing ~~a charge against~~ an appeal of a police officer, to ~~forthwith proceed to hear, try,~~ and determine the charge appeal according to the rules of evidence applicable to courts of record in the state."

{Internal References to 7-32-4155:
A7-32-4152 R7-32-4162}

Section 6. Section 7-32-4156, MCA, is amended to read:
"7-32-4156. Charges Appeals to be in writing. Any charge An appeal brought against by any member of the police force must be in writing in the form required by the police commission, and a copy thereof must be served upon the ~~accused officer or member~~ mayor, city manager, or chief executive at least 15 30 days before the time fixed for the hearing of such charge the appeal."
{Internal References to 7-32-4156: None.}

Section 7. Section 7-32-4157, MCA, is amended to read:
"7-32-4157. Rights of ~~accused policeman~~ police officer. The ~~accused shall have~~ appealing police officer has the right to be present at the trial hearing in person and by counsel and to be heard and to give and furnish evidence in his defense the police officer's appeal."
{Internal References to 7-32-4157: None.}

Section 8. Section 7-32-4158, MCA, is amended to read:
"7-32-4158. Police commission ~~trials~~ hearings open to public. All ~~trials shall~~ hearings must be open to the public."
{Internal References to 7-32-4158: None.}

Section 9. Section 7-32-4160, MCA, is amended to read:
"7-32-4160. Decision by police commission ~~veto power of~~ mayor. ~~(1) The police commission must shall,~~ after the conclusion of the hearing ~~or trial,~~ decide whether the charge was proven or not proven the appeal and ~~shall must~~ shall have the power, by a decision of a majority of the commission, to discipline, suspend, remove, or discharge any officer who shall have been found guilty of the charge filed against him sustain, modify, or overrule the disciplinary order of the mayor, city manager, or chief executive.

~~(2) Such action of the police commission shall, however, be subject to modification or veto by the mayor, made in writing and~~

~~giving reasons therefor, which shall become a permanent record of the police commission; provided, however, that where and when the police commission decides the charge not proven, the decision is final and conclusive and is not subject to modification or veto by the mayor or to any review.~~

~~(3) Where the police commission decides the charge proven, the mayor, within 5 days from the date of the filing of such findings and decision with the city clerk, may modify or veto such findings and decision."~~

{ Internal References to 7-32-4160:
x7-32-4153 }

Section 10. Section 7-32-4161, MCA, is amended to read:

"7-32-4161. Enforcement of decision. When a charge against a member of the police force is found proven by the board and is not vetoed by the mayor, the The mayor must shall make an order enforcing the decision of the board or the decision as modified if modified by the mayor police commission. Such The decision or order shall be is subject to review by the district court of the proper county on all questions of fact and all questions of law. "

{ Internal References to 7-32-4161:
x*7-32-4153 }

Renumber: subsequent section

4. Page 2, line 20.

Strike: "police commission or an order of the"

5. Page 2, line 25.

Following: "the"

Insert: "police commission. A final decision of the police commission may be appealed to the"

6. Page 3, line 3.

Following: "~~but no~~"

Insert: "The district court has jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force."

7. Page 3, lines 7 and 8.

Following: "commission" on line 7

Strike: remainder of line 7 through "EXECUTIVE" on line 8

8. Page 3, line 9.

Following: line 8

Insert: "NEW SECTION. Section 12. {standard} Repealer. Sections 7-32-4162 and 7-32-4163, MCA, are repealed.

{ Internal References to 7-32-4162:

A*7-32-4153

Internal References to 7-32-4163:

A7-32-4153 } "

Amendments to House Bill No. 287
Third Reading Copy

Requested by Senator Towe
For the Senate Committee on Labor and Employee Relations

Prepared by Eddy McClure
March 16, 1993

1. Page 20, line 12.

Strike: "The"

Insert: "After the due process requirements of 39-71-2401(2) and
(3) are satisfied, the"

2. Page 20, line 17.

Following: "real"

Strike: "and personal"

Amendments to House Bill No. 617
Third Reading Copy

Requested by Senator Towe
For the Senate Committee on Labor and Employee Relations

Prepared by Eddy McClure
March 17, 1993

1. Page 9, line 9.

Following: "(3)"

Strike: "Reimbursement"

Insert: "Premiums for workers' compensation and occupational
disease coverage must be paid by the/prison industries ✓
program or by the department of institutions. If the
department pays the premium, reimbursement"

2. Page 12, line 14.

Strike: "53-1-301(3)"

Insert: "39-71-744"

Before the Senate Labor Committee

Financial institutions' proposed additional amendment to proposed amendments 1 and 2 from C. Hunter, Dept. of Labor

3. Page 20, line 21 through page 21, line 4
Strike: subsection (2) in its entirety
Renumber: following subsection

Rationale: The affidavit in para. (b) is just one more piece of paperwork in a loan transaction whose benefit to the bureaucracy does not equal the burden on lenders and borrowers. If that is stricken, para. (a) adds nothing to existing lien law, 71-3-113, MCA ["Other things being equal, different liens on the same property have priority according to the time of their creation."] Any precedent set in the unemployment insurance law is an undesirable precedent and the financial institutions will plan to seek the amendment of that provision in the next session.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 1

DATE 3/18/93

BILL NO. HB 287

DATE March 18, 1993

SENATE COMMITTEE ON Labor & Employment

BILLS BEING HEARD TODAY: Executive Action

Name	Representing	Bill No.	Check One Support Oppose	
Mark Lindsay	MT Building Ind.	470 487	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY