

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 374

Call to Order: By DON HARGROVE, on April 18, 1997, at 12:25 p.m., in Room 413/415.

ROLL CALL

Members Present:

Sen. Don Hargrove (R)
Sen. Thomas F. Keating (R)
Sen. Mignon Waterman (D)
Rep. William E. Boharski (R)
Rep. Loren L. Soft (R)
Rep. Diane Sands (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council Division
Jodi Jones, Committee Secretary

HEARING ON SB 374

SENATOR DON HARGROVE said his goal it to get this to where it will be accepted on the federal level.

REP. LOREN SOFT said the House Judiciary Committee went through these amendments and page 12, sub-section 66 is the only new language that has been added (EXHIBIT 1).

Mary Ann Wellbank, Child Support Enforcement Division, discussed the amendments (EXHIBIT 1).

SENATOR TOM KEATING asked if current state language was being restored in the amendments. Amy Pfeifer, Department of Public Health and Human Services, said yes.

Mary Ann Wellbank continued to explain the amendments (EXHIBIT 1).

{Tape: 1; Side: A; Approx. Time Count: 12:39 a.m.; Comments: .}

REP. SOFT said in sub-committee he had asked for a sunset clause and he would like that put in there.

Mary Ann Wellbank said we wouldn't sunset the whole law just the contingency language.

REP. SOFT said this bill came to the whole committee, went to sub-committee and made all of these amendments including the sunset and that was adopted by the committee. The bill failed, and REP. BILL BOHARSKI made a substitute amendment to strip out the contingency language and the sunset also was stripped out.

Motion:

REP. SOFT MOVED TO ADOPT THE AMENDMENTS INCLUDING THE SUNSET CLAUSE.

Discussion:

SENATOR MIGNON WATERMAN wanted the amendments segregated.

Motion:

SENATOR KEATING MOVED TO SEGREGATE THE CONTINGENCY LANGUAGE.

Discussion:

SENATOR HARGROVE said if you segregate the contingency language and pass it by itself then it is no longer contingent.

REP. SOFT said a lot of the amendments are clarifying existing language and they have already been through the Judiciary Committee.

REP. BILL BOHARSKI said he would rather vote on these amendments one major area at a time.

Motion:

REP. BOHARSKI MOVED TO ACCEPT THOSE PARTS DEALING WITH FINANCIAL DATA MATCHING.

Discussion:

REP. SOFT said he would object segregating those four amendments because they need to be considered together and if one is gone then the whole bill is gone.

Vote:

MOTION TO ADOPT THOSE AMENDMENTS DEALING WITH FINANCIAL DATA MATCHING PASSED UNANIMOUSLY.

Motion:

SEN. WATERMAN MOVED THE AMENDMENTS DEALING WITH THE JUDGE WITHOUT A JURY.

REP. BOHARSKI said this is an area that is quite flexible. He thought one state went home already without adopting this provision (EXHIBIT 1).

REP. SOFT says this has happened so rarely in Montana and they can still request a trial.

SEN. WATERMAN said if Congress changed the rules on this it would still fall under the contingency language.

SEN. HARGROVE said he agreed that the language itself is somewhat offensive.

Mary Ann Wellbank said she didn't know how flexible they would be on this. The federal government says this shall be law even if it requires a constitutional change.

REP. BOHARSKI said these are issues of equity and civil issues where you are entitled to a jury trial. It might be better to leave this amendment out and ask the voters if they want a Constitutional change.

Vote:

MOTION TO ADOPT THOSE AMENDMENTS DEALING WITH A JUDGE WITHOUT A JURY PASSED 4-2 WITH SEN. KEATING AND REP. BOHARSKI voting no.

Motion:

SEN. WATERMAN MOVED TO ADOPT THE AMENDMENTS DEALING WITH NEW HIGHER REPORTING.

Discussion:

REP. SOFT said this has been a very controversial issue. They talked to other states and Washington D.C. trying to come up with a compromise.

Motion:

SEN. BOHARSKI MADE A SUBSTITUTE MOTION TO HAVE THE CHILD SUPPORT ENFORCEMENT DIVISION UPLOAD THE SAME DATA BASE ON A QUARTERLY BASIS.

Discussion:

REP. BOHARSKI said it should be up to bureaucrats to make sure this information is shared rather than being up to the employers.

SENATOR HARGROVE said we already report quarterly to the Department of Labor.

Mary Ann Wellbank said higher reporting is the heart of the bill. She said what REP. BOHARSKI is recommending is that we take the

existing data base where employers are required to report quarterly for purpose of unemployment and upload it to the federal level so other states could check on it. It doesn't comply with the new higher reporting. New higher need to be reported within 20 days because often times by the time it gets to the data base it is 90 to 100 days old and the obligor has found another job.

{Tape: 1; Side: A; Approx. Time Count: 12:58 p.m.; Comments: .}

SENATOR KEATING asked if the employer reports monthly to the Department of Labor. Amy Pfeifer said there is not a requirement to send the W-4's into anybody, there is just the unemployment that needs to be sent in quarterly.

SENATOR KEATING asked if the only time the employer notifies the state is on a quarterly report. Amy Pfeifer said that was correct.

REP. DIANE SANDS said this is unconstitutional once a data base is created at the federal level. It doesn't matter if they change the number of days for a reporting period, they are still out of compliance.

REP. BOHARSKI said he would withdraw his substitute motion.

Vote:

MOTION TO ADOPT THE AMENDMENTS DEALING WITH NEW HIGHER REPORTING PASSED 4-2 WITH SEN. KEATING AND REP. BOHARSKI voting no.

Motion/Vote:

REP. SANDS MOVED TO ADOPT SOCIAL SECURITY REPORTING. MOTION CARRIED 4-2 WITH SEN. KEATING AND REP. BOHARSKI voting no.

Motion/Vote:

SEN. WATERMAN MOVED TO ADOPT REMAINING AMENDMENTS EXCEPT FOR THE SUNSET CLAUSE AND SUB-SECTION 66. MOTION CARRIED 5-1 WITH REP. BOHARSKI voting no.

Motion:

REP. SOFT MOVED THE CONTINGENCY LANGUAGE IN SUB-SECTION 66.

Discussion:

Amy Pfeifer explained the contingency language (EXHIBIT 1).

REP. BOHARSKI asked about the amendment dealing with termination based on withholding of federal funds. Amy Pfeifer said this was explained on page 119 of the bill.

Vote:

MOTION TO ADOPT THE CONTINGENCY LANGUAGE PASSED UNANIMOUSLY.

Motion:

SENATOR KEATING MOVED TO ADOPT THE SUNSET CLAUSE.

Discussion:

SENATOR KEATING asked what the sunset clause would do. **Mary Ann Wellbank** said those acts under the sunset would have to be reconsidered next session because they are sunseted on June 30, 1999.

SENATOR WATERMAN said she is against this amendment. If Congress changes this, the amendments will be null and void anyway. And if Congress doesn't give us the money because we haven't complied with the law they are null and void and if another state challenges this they are void also. If all of those things fail, why subject the next legislature into doing that. It is expensive to seek waivers and how is that going to be staffed. **Mary Ann Wellbank** said we have never done this before, but they plan on having one person collect data and study this.

Vote:

MOTION TO ADOPT THE SUNSET CLAUSE CARRIED 5-1 WITH SEN. WATERMAN voting no.

Motion:

REP. BOHARSKI MOVED PAGE 119, SECTION 98, LINE 16 STRIKE 1997 AND INSERT 1999 AND LINE 17 STRIKE 1998 AND INSERT 2000.

Discussion:

REP. SOFT said he is against this motion. If we adopt and other states are going to question and push like we are and then it gets overturned it is done. All we can do is say that we tried.

SENATOR KEATING said if they delay this it is the same as not doing it.

Vote:

MOTION TO ADOPT THE DATE CHANGES FAILED 1-5 WITH REP. BOHARSKI VOTING YES.

Discussion:

REP. BOHARSKI asked if there is any provision in this act that says if Congress repeals this act, that they act immediately falls back. **Mary Ann Wellbank** said it is hard to say if any of

them will be repealed. It can be added to the amendments if needed.

John MacMaster said if federal law is repealed or amended out then that provision terminates. This is very difficult because they are talking about so many different things and the way they are interpreted. Being a department director would be very difficult because there would be so many provisions and they would have to decide if any had been revoked.

Mary Ann Wellbank said if it is real simple like taking out the new hirer reporting, then their job is simple. If they change the number of days from 20-40 then it can be very difficult to change this.

REP. BOHARSKI said language could be added that if the federal government repeals provisions requiring sections of this act, then those actions are terminated upon the action of the federal government.

John MacMaster said this can't be done because somebody has to decide if this section of the federal law has been repealed or not.

SENATOR KEATING asked if the word "categories" could be used. **Mary Ann Wellbank** said if they stick with the word "simple repealer" then it will be okay.

Motion/Vote:

REP. BOHARSKI MOVED THE CONCEPTUAL LANGUAGE TO INCLUDE A REPEALER. MOTION CARRIED UNANIMOUSLY.


MOTION/VOTE:

SEN. KEATING MOVED SB 374 DO PASS AS AMENDED. MOTION CARRIED 4-2 WITH SEN. KEATING AND REP. BOHARSKI voting no.

ADJOURNMENT

Adjournment: 1:17 p.m.


SEN. DON HARGROVE, Chairman


JODI JONES, Secretary

DH/jj