

1 *House* BILL NO. *38*
 2 INTRODUCED BY *M. Pettibone, Dennis Harper*
 3 *Meloy, Moore, J*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PUBLIC
 5 INSPECTION OF THE RECORDS OF THE DIVISION OF WORKMEN'S
 6 COMPENSATION, PROVIDING EXEMPTIONS, AND REPEALING SECTION
 7 92-909, R.C.M. 1947."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9
 10 Section 1. Public records -- right to inspect. Each
 11 person has a right to inspect any public record of the
 12 division of workmen's compensation, except as otherwise
 13 expressly provided by law. For the purposes of this act
 14 "public record" means any writing containing information
 15 relating to the conduct of the public's business, prepared,
 16 owned, used or retained by a public body regardless of
 17 physical form or characteristics.
 18 Section 2. Duties of administrator. The administrator
 19 of the division shall furnish proper and reasonable
 20 opportunities for inspection and examination of the records
 21 under his control and reasonable facilities for making
 22 memoranda or abstracts therefrom, during the usual business
 23 hours, to all persons having occasion to examine them. The
 24 administrator may make reasonable rules necessary for the
 25 protection of the records and necessary to prevent

1 interference with the regular discharge of his duties.
 2 Section 3. Certified copies of public records -- fees.
 3 (1) The administrator of the division shall, on demand,
 4 furnish a certified copy of any public record to a person
 5 who has a right to inspect it, if the record is of a nature
 6 permitting such copying, or shall furnish reasonable
 7 opportunity to inspect or copy.
 8 (2) The administrator of the division may establish
 9 fees reasonably calculated to reimburse the division for its
 10 actual cost in making such records available.
 11 Section 4. Records exempt from disclosure. (1) The
 12 following public records of the division are exempt from
 13 disclosure:
 14 (a) information of a personal nature such as that kept
 15 in a personal, medical, or similar file, if the public
 16 disclosure thereof would constitute an unreasonable invasion
 17 of privacy, unless the public interest by clear and
 18 convincing evidence requires disclosure in the particular
 19 instance. The party seeking disclosure shall have the
 20 burden of showing that public disclosure would not
 21 constitute an unreasonable invasion of privacy;
 22 (b) any public records or information, the disclosure
 23 of which is prohibited by federal law or regulations.
 24 (2) If any public record of the division contains
 25 material which is not exempt under subsection (1) of this

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1 section, as well as material which is exempt from
2 disclosure, the administrator of the division shall separate
3 the exempt and nonexempt and make the nonexempt material
4 available for examination.

5 Section 5. Section 92-809, R.C.M. 1947, is repealed.

-End-

Approved by Committee
on Labor & Employment
Relations

HOUSE BILL NO. 38

INTRODUCED BY MCKITTRICK, DRISCOLL, HARPER,

MELOY, JAMES MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PUBLIC
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following--public--records--of--the--division--are--exempt--from
disclosure.~~ IN ASSURING THAT THE RIGHT OF INDIVIDUAL PRIVACY
SO ESSENTIAL TO THE WELL-BEING OF A FREE SOCIETY SHALL NOT
BE INFRINGED WITHOUT THE SHOWING OF A COMPELLING STATE
INTEREST, THE FOLLOWING PUBLIC RECORDS OF THE DIVISION ARE
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5 material which is not exempt under subsection (1) of this
6 section, as well as material which is exempt from
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6 INSPECTION OF THE RECORDS OF THE DIVISION OF WORKMEN'S
7 COMPENSATION, PROVIDING EXEMPTIONS, AND REPEALING ~~SECTION~~
8 SECTIONS 92-809 AND 92-1348, R.C.M. 1947."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 person has a right to inspect any public record of the
13 division of workmen's compensation, except as otherwise
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20 of the division shall furnish proper and reasonable
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21 disclosure thereof would constitute an unreasonable invasion
22 of privacy, unless the public interest by clear and
23 convincing evidence requires disclosure in the particular
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25 burden of showing that public disclosure would not

1 constitute an unreasonable invasion of privacy;

2 (b) any public records or information, the disclosure
3 of which is prohibited by federal law or regulations.

4 (2) If any public record of the division contains
5 material which is not exempt under subsection (1) of this
6 section, as well as material which is exempt from
7 disclosure, the administrator of the division shall separate
8 the exempt and nonexempt and make the nonexempt material
9 available for examination.

10 Section 5. ~~Section~~ SECTIONS 92-809 AND 92-1348, R.C.M.
11 1947, ~~is~~ ARE repealed.

-End-

February 6, 1975

SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

AMENDMENTS TO HOUSE BILL NO. 38

That House Bill No. 38 be amended as follows:

1. Amend: Committee of the Whole Amendment No. 1, dated February 5, 1975.
Strike: Amendment No. 1 in its entirety.
2. Amend: Committee of the Whole Amendment No. 2, dated February 5, 1975.
Strike: Amendment No. 2 in its entirety.
3. Amend: page 2, section 4, lines 19 and 20.
Following: "such as"
Strike: "that kept in a"
4. Amend: page 2, line 20.
Following: "similar"
Strike: "file"
Insert: "information"

February 5, 1975

COMMITTEE OF THE WHOLE

AMENDMENTS TO HOUSE BILL NO. 38

That House Bill No. 38 be amended as follows:

1. Amend title, page 1, line 5.

Following: "ENTITLED:"

Strike: lines 5 through 8 in their entirety

Insert: "AN ACT PROVIDING FOR PUBLIC INSPECTION OF ALL RECORDS OF THE DIVISION OF WORKMEN'S COMPENSATION BEARING UPON CLAIMS AND AWARDS; DECLARING COMPELLING STATE INTEREST IN THE RIGHT TO INSPECT SUCH RECORDS; DECLARING THAT IN SUCH CASES THE MERITS OF PUBLIC DISCLOSURE EXCEED THE DEMAND OF INDIVIDUAL PRIVACY; CONFORMING THE DIVISION OF WORKMEN'S COMPENSATION PUBLIC DISCLOSURE REQUIREMENTS TO SECTIONS 9 AND 10 OF ARTICLE II OF THE 1972 MONTANA CONSTITUTION; AMENDING SECTION 92-809, R.C.M. 1947; AND REPEALING SECTION 92-1348, R.C.M. 1947."

2. Amend page 1, line 10.

Following: line 10

Strike: remainder of bill in its entirety

Insert: "Section 1. Section 92-809, R.C.M. 1947, is amended to read as follows:

"92-809. Confidential information used, how. No information furnished to the board division by an employer, a workman, or an insurer shall be ~~open to~~ withheld from public inspection, ~~or made public~~ except on order of the board, ~~or by the board or a member of the board, in the course of a hearing or proceeding.~~ ~~Any officer or employee of the board who, in violation of the provisions of this section, divulges any information, shall be guilty of a misdemeanor.~~ division, when it finds that particular information relates to medical information having no bearing upon the claim presented or award made. In the case of all other information furnished to the division by an employer, a workman, or an insurer, the legislature finds that the merits of public disclosure clearly exceed the demands of individual privacy and that there is a compelling state interest in the exercise of the constitutional right to inspect public records of the division of workmen's compensation as provided in this act."

Section 2. Section 92-1348, R.C.M. 1947, is repealed."

HOUSE BILL NO. 38

INTRODUCED BY MCKITTRICK, DRISCOLL, HARPER,

MELOY, JAMES MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING--PUBLIC INSPECTION--OF--THE--RECORDS--OF--THE--DIVISION--OF--WORKMEN'S COMPENSATION, PROVIDING EXEMPTIONS, AND REPEALING--SECTION SECTIONS 92-809--AND--92-1348,--R.C.M.--1947 PROVIDING FOR PUBLIC--INSPECTION--OF--ALL--RECORDS--OF--THE--DIVISION--OF WORKMEN'S--COMPENSATION--BEARING--UPON--CLAIMS--AND--AWARDS, DECLARING--COMPELLING--STATE--INTEREST--IN--THE--RIGHT--TO--INSPECT SUCH--RECORDS,--DECLARING--THAT--IN--SUCH--CASES--THE--MERITS--OF PUBLIC--DISCLOSURE--EXCEED--THE--DEMAND--FOR--INDIVIDUAL--PRIVACY, CONFORMING--THE--DIVISION--OF--WORKMEN'S--COMPENSATION--PUBLIC DISCLOSURE--REQUIREMENTS--TO--SECTIONS--9--AND--10--OF--ARTICLE--II OF--THE--1972--MONTANA--CONSTITUTION,--AMENDING--SECTION--92-809, R.C.M.--1947,--AND--REPEALING--SECTION--92-1348,--R.C.M.--1947 ALLOWING PUBLIC INSPECTION OF THE RECORDS OF THE DIVISION OF WORKMEN'S COMPENSATION, PROVIDING EXEMPTIONS, AND REPEALING SECTION SECTIONS 92-809 AND 92-1348, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~{Strike everything after the enacting clause and insert:}~~

~~SECTION 1,--SECTION 92-809,--R.C.M.--1947,--IS--AMENDED--TO~~

~~READ AS FOLLOWS:~~

~~"92-809,--Confidential--information--used,--how,--No information--furnished--to--the--board--division--by--an--employer,--a workman,--or--an--insurer--shall--be--open--to--withheld--from--public inspection,--or--made--public--except--on--order--of--the--board,--or by--the--board--or--a--member--of--the--board,--in--the--course--of--a hearing--or--proceeding,--Any--officer--or--employee--of--the--board who,--in--violation--of--the--provisions--of--this--section, divulges--any--information,--shall--be--guilty--of--a--misdemeanor division,--when--it--finds--that--particular--information--relates to--medical--information--having--no--bearing--upon--the--claim presented--or--award--made,--in--the--case--of--all--other information--furnished--to--the--division--by--an--employer,--a workman,--or--an--insurer,--the--legislature--finds--that--the merits--of--public--disclosure--clearly--exceed--the--demands--of individual--privacy--and--that--there--is--a--compelling--state interest--in--the--exercise--of--the--constitutional--right--to inspect--public--records--of--the--division--of--workmen's compensation--as--provided--in--this--act."~~

~~SECTION 2,--SECTION 92-1348,--R.C.M.--1947,--IS--REPEALED,~~

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