

1 House BILL NO. 293
 2 INTRODUCED BY Johnson
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 59-1606, R.C.M. 1947, TO PROVIDE THAT THE BOARD OF PERSONNEL
 6 APPEALS IS NOT BOUND BY COMMON LAW AND STATUTORY RULES OF
 7 EVIDENCE IN REPRESENTATION HEARINGS; AND PROVIDING AN
 8 EFFECTIVE DATE."
 9

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

11 Section 1. Section 59-1606, R.C.M. 1947, is amended to
 12 read as follows:

13 "59-1606. Petition on representation matters --
 14 hearing -- notice -- election. (1) Whenever in accordance
 15 with such rules as may be prescribed by the board, a
 16 petition has been filed:

17 (a) by an employee or group of employees or any labor
 18 organization acting in their behalf alleging that thirty
 19 percent (30%) of the employees:

20 (i) wish to be represented for collective bargaining
 21 by a labor organization as exclusive representative, or

22 (ii) assert that the labor organization which has been
 23 certified or is currently being recognized by the public
 24 employer as bargaining representative is no longer the
 representative of the majority of employees in the unit; or

1 (b) by the public employer alleging that one or more
 2 labor organizations has presented to it a claim to be
 3 recognized as the exclusive representative in an appropriate
 4 unit, the board or an agent of the board shall investigate
 5 the petition, and if it has reasonable cause to believe that
 6 a question of representation exists, it shall provide for an
 7 appropriate hearing upon due notice. In this hearing the
 8 board is not bound by common law and statutory rules of
 9 evidence. If the board or an agent of the board finds that
 10 there is a question of representation, it shall direct an
 11 election by secret ballot to determine whether, and by which
 12 labor organization the employees desire to be represented or
 13 whether they desire to have no labor organization represent
 14 them and shall certify the results thereof. Only those labor
 15 organizations which have been designated by more than ten
 16 percent (10%) of the employees in the unit found to be
 17 appropriate shall be placed on the ballot. Nothing in this
 18 section prohibits the waiving of hearings by stipulation for
 19 the purpose of a consent election in conformity with the
 20 rules of the board.

21 (2) In order to assure employees the fullest freedom
 22 in exercising the rights guaranteed by this act, the board
 23 or an agent of the board shall decide the unit appropriate
 24 for the purpose of collective bargaining, and shall consider
 25 such factors as community of interest, wages, hours, fringe

HB 293

1 benefits, and other working conditions of the employees
2 involved, the history of collective bargaining, common
3 supervision, common personnel policies, extent of
4 integration of work functions and interchange among
5 employees affected, and the desires of the employees.

6 (3) An election shall not be directed in any
7 bargaining unit or in any subdivision thereof within which,
8 in the preceding twelve (12) month period, a valid election
9 has been held. The board or an agent of the board shall
10 determine who is eligible to vote in the election and shall
11 establish rules governing the election. Unless the majority
12 vote is for no representation by a labor organization and in
13 any election where none of the choices for a representative
14 on the ballot receives a majority, a runoff election shall
15 be conducted; the ballot providing for selection between the
16 two choices receiving the largest and the second largest
17 number of valid votes cast in the election. A labor
18 organization which receives the majority of the votes cast
19 in an election shall be certified by the board as the
20 exclusive representative."

21 Section 2. This act is effective on its passage and
22 approval.

-End-

SECOND READING

MISSING

1 House BILL NO. 293
 2 INTRODUCED BY Johnson
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 59-1606, R.C.M. 1947, TO PROVIDE THAT THE BOARD OF PERSONNEL
 6 APPEALS IS NOT BOUND BY COMMON LAW AND STATUTORY RULES OF
 7 EVIDENCE IN REPRESENTATION HEARINGS; AND PROVIDING AN
 8 EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 59-1606, R.C.M. 1947, is amended to
 12 read as follows:

13 "59-1606. Petition on representation matters --
 14 hearing -- notice -- election. (1) Whenever in accordance
 15 with such rules as may be prescribed by the board, a
 16 petition has been filed:

17 (a) by an employee or group of employees or any labor
 18 organization acting in their behalf alleging that thirty
 19 percent (30%) of the employees:

20 (i) wish to be represented for collective bargaining
 21 by a labor organization as exclusive representative, or

22 (ii) assert that the labor organization which has been
 23 certified or is currently being recognized by the public
 24 employer as bargaining representative is no longer the
 25 representative of the majority of employees in the unit; or

1 (b) by the public employer alleging that one or more
 2 labor organizations has presented to it a claim to be
 3 recognized as the exclusive representative in an appropriate
 4 unit, the board or an agent of the board shall investigate
 5 the petition, and if it has reasonable cause to believe that
 6 a question of representation exists, it shall provide for an
 7 appropriate hearing upon due notice. In this hearing the
 8 board is not bound by common law and statutory rules of
 9 evidence. If the board or an agent of the board finds that
 10 there is a question of representation, it shall direct an
 11 election by secret ballot to determine whether, and by which
 12 labor organization the employees desire to be represented or
 13 whether they desire to have no labor organization represent
 14 them and shall certify the results thereof. Only those labor
 15 organizations which have been designated by more than ten
 16 percent (10%) of the employees in the unit found to be
 17 appropriate shall be placed on the ballot. Nothing in this
 18 section prohibits the waiving of hearings by stipulation for
 19 the purpose of a consent election in conformity with the
 20 rules of the board.

21 (2) In order to assure employees the fullest freedom
 22 in exercising the rights guaranteed by this act, the board
 23 or an agent of the board shall decide the unit appropriate
 24 for the purpose of collective bargaining, and shall consider
 25 such factors as community of interest, wages, hours, fringe

1 benefits, and other working conditions of the employees
2 involved, the history of collective bargaining, common
3 supervision, common personnel policies, extent of
4 integration of work functions and interchange among
5 employees affected, and the desires of the employees.

6 (3) An election shall not be directed in any
7 bargaining unit or in any subdivision thereof within which,
8 in the preceding twelve (12) month period, a valid election
9 has been held. The board or an agent of the board shall
10 determine who is eligible to vote in the election and shall
11 establish rules governing the election. Unless the majority
12 vote is for no representation by a labor organization and in
13 any election where none of the choices for a representative
14 on the ballot receives a majority, a runoff election shall
15 be conducted; the ballot providing for selection between the
16 two choices receiving the largest and the second largest
17 number of valid votes cast in the election. A labor
18 organization which receives the majority of the votes cast
19 in an election shall be certified by the board as the
20 exclusive representative."

21 Section 2. This act is effective on its passage and
22 approval.

-End-

1 HOUSE BILL NO. 293

2 INTRODUCED BY JOHNSON

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 59-1606, R.C.M. 1947, TO PROVIDE THAT THE BOARD OF PERSONNEL
6 APPEALS IS NOT BOUND BY COMMON LAW AND STATUTORY RULES OF
7 EVIDENCE IN REPRESENTATION HEARINGS; AND PROVIDING AN
8 EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 59-1606, R.C.M. 1947, is amended to
12 read as follows:

13 "59-1606. Petition on representation matters --
14 hearing -- notice -- election. (1) Whenever in accordance
15 with such rules as may be prescribed by the board, a
16 petition has been filed:

17 (a) by an employee or group of employees or any labor
18 organization acting in their behalf alleging that thirty
19 percent (30%) of the employees:

20 (i) wish to be represented for collective bargaining
21 by a labor organization as exclusive representative, or

22 (ii) assert that the labor organization which has been
23 certified or is currently being recognized by the public
24 employer as bargaining representative is no longer the
25 representative of the majority of employees in the unit; or

1 (b) by the public employer alleging that one or more
2 labor organizations has presented to it a claim to be
3 recognized as the exclusive representative in an appropriate
4 unit, the board or an agent of the board shall investigate
5 the petition, and if it has reasonable cause to believe that
6 a question of representation exists, it shall provide for an
7 appropriate hearing upon due notice. In this hearing the
8 board is not bound by common law and statutory rules of
9 evidence. If the board or an agent of the board finds that
10 there is a question of representation, it shall direct an
11 election by secret ballot to determine whether, and by which
12 labor organization the employees desire to be represented or
13 whether they desire to have no labor organization represent
14 them and shall certify the results thereof. Only those labor
15 organizations which have been designated by more than ten
16 percent (10%) of the employees in the unit found to be
17 appropriate shall be placed on the ballot. Nothing in this
18 section prohibits the waiving of hearings by stipulation for
19 the purpose of a consent election in conformity with the
20 rules of the board.

21 (2) In order to assure employees the fullest freedom
22 in exercising the rights guaranteed by this act, the board
23 or an agent of the board shall decide the unit appropriate
24 for the purpose of collective bargaining, and shall consider
25 such factors as community of interest, wages, hours, fringe

1 benefits, and other working conditions of the employees
2 involved, the history of collective bargaining, common
3 supervision, common personnel policies, extent of
4 integration of work functions and interchange among
5 employees affected, and the desires of the employees.

6 (3) An election shall not be directed in any
7 bargaining unit or in any subdivision thereof within which,
8 in the preceding twelve (12) month period, a valid election
9 has been held. The board or an agent of the board shall
10 determine who is eligible to vote in the election and shall
11 establish rules governing the election. Unless the majority
12 vote is for no representation by a labor organization and in
13 any election where none of the choices for a representative
14 on the ballot receives a majority, a runoff election shall
15 be conducted; the ballot providing for selection between the
16 two choices receiving the largest and the second largest
17 number of valid votes cast in the election. A labor
18 organization which receives the majority of the votes cast
19 in an election shall be certified by the board as the
20 exclusive representative.*

21 Section 2. This act is effective on its passage and
22 approval.

-End-