

HOUSE BILL NO. 452

INTRODUCED BY JOHNSON, MCKITTRICK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN APPEALS PROCEDURE BEFORE THE BOARD OF PERSONNEL APPEALS FOR STATE EMPLOYEES AFFECTED BY THE OPERATION OF TITLE 59, CHAPTER 9, R.C.M. 1947; AMENDING SECTION 82A-1014, R.C.M. 1947."

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

Section 1. Section 82A-1014, R.C.M. 1947, is amended to read as follows:

"82A-1014. Board of personnel appeals created.

(1) There is created a board of personnel appeals.

(2) The board is allocated to the department of labor and industry for administrative purposes only as prescribed in section 82A-108.

(3) The board consists of five (5) members appointed by the governor. Two (2) members shall represent management, two (2) members shall represent employees or employee organizations of the state, and one (1) member shall represent a neutral position.

(4) (a) Any employee or his representative affected by the operation of ~~this act~~ Title 59, chapter 9, R.C.M. 1947, is entitled to file a complaint with the board and to be heard, under the provisions of a grievance procedure to be

prescribed by the board. ~~The board may instruct the department to take corrective action that may be necessary to resolve grievances that are found to be legitimate.~~

(b) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the agency for which the employee works against an employee because the employee has filed or attempted to file a complaint with the board shall also be basis for a complaint and shall entitle the employee to file a complaint with the board and to be heard, under the provisions of the grievance procedure prescribed by the board.

(c) If upon the preponderance of the evidence taken at the hearing the board is of the opinion that the employee is aggrieved, it may issue an order to the department of administration requiring such action of the department as will resolve the employee's grievance. In any hearing the board is not bound by statutory or common law rules of evidence.

(d) The board or the employee may petition for the enforcement of the board's order and for appropriate temporary relief, and shall file in the district court the record of the proceedings. Upon the filing of the petition, the district court shall have jurisdiction of the proceeding. Thereafter, the district court shall set the matter for hearing. After the hearing, the district court

1 shall issue its order granting such temporary or permanent
2 relief as it considers just and proper. No objection that
3 has not been raised before the board shall be considered by
4 the court unless the failure or neglect to raise the
5 objection is excused because of extraordinary circumstances.
6 The findings of the board with respect to questions of fact,
7 if supported by substantial evidence on the record
8 considered as a whole, shall be conclusive.

9 (5) The board is designated a quasi-judicial board for
10 purposes of section 82A-112."

11 Section 2. This act is effective upon passage and
12 approval.

-End-

SECOND READING

MISSING

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March 13, 1975

SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

AMENDMENTS TO HOUSE BILL NO. 452

That House Bill No. 452, third reading, be amended as follows:

1. Amend title, line 7.
Following: "1974"
Insert: "; and providing an effective date"

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7 R.C.M. 1947; AMENDING SECTION 82A-1014, R.C.M. 1947; AND
8 PROVIDING AND EFFECTIVE DATE."

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