

1 House BILL NO. 714
2 INTRODUCED BY Driscoll

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
5 59-1605 AND 59-1606, R.C.M. 1947, RELATING TO COLLECTIVE
6 BARGAINING FOR PUBLIC EMPLOYEES; AND PROVIDING FOR
7 COORDINATED BARGAINING."
8

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

10 Section 1. Section 59-1605, R.C.M. 1947, is amended to
11 read as follows:

12 "59-1605. Unfair labor practices of employer or labor
13 organization. (1) It is an unfair labor practice for a
14 public employer to:

15 (a) interfere with, restrain, or coerce employees in
16 the exercise of the rights guaranteed in section 3 [59-1603]
17 of this act;

18 (b) dominate, interfere, or assist in the formation or
19 administration of any labor organization; however, subject
20 to rules adopted by the board under section 12 (3), an
21 employer is not prohibited from permitting employees to
22 confer with him during working hours without loss of time or
23 pay;

24 (c) discriminate in regard to hire or tenure of
25 employment or any term or condition of employment to

1 encourage or discourage membership in any labor
2 organization; however, nothing in this act or in any other
3 statute of this state precludes a public employer from
4 making an agreement with an exclusive representative to
5 require that an employee who is not or does not become a
6 union member shall be required as a condition of employment
7 to have an amount equal to the union initiation fee and
8 monthly dues deducted from his wages in the same manner as
9 checkoff of union dues;

10 (d) discharge or otherwise discriminate against an
11 employee because he has signed or filed an affidavit,
12 petition, or complaint or given any information or testimony
13 under this act;

14 (e) refuse to bargain collectively in good faith with
15 an exclusive representative.

16 (2) It is an unfair labor practice for a labor
17 organization or its agents to:

18 (a) restrain or coerce employees in the exercise of the
19 right guaranteed in subsection (1) of section 3 of this act,
20 or a public employer in the selection of his representative
21 for the purpose of collective bargaining or the adjustment
22 of grievances;

23 (b) refuse to bargain collectively in good faith with a
24 public employer, if it has been designated as the exclusive
25 representative of employees;

INTRODUCED BILL

-2- HB 714

1 (c) use agency shop fees for contributions to political
2 candidates or parties at state or local levels.

3 (3) For the purpose of this act, to bargain
4 collectively is the performance of the mutual obligation of
5 the public employer, or his designated representatives, and
6 the representatives of the exclusive representative to meet
7 at reasonable times and negotiate in good faith with respect
8 to wages, hours, fringe benefits, and other conditions of
9 employment, or the negotiation of an agreement, or any
10 question arising thereunder, and the execution of a written
11 contract incorporating any agreement reached. Such
12 obligation does not compel either party to agree to a
13 proposal or require the making of a concession. For
14 purposes of state government, the direct placement of state
15 employees into salary grades and steps in the state
16 classification and pay plan is not a negotiable matter.

17 (4) This act does not limit the authority of the
18 legislature, any political subdivision or the governing
19 body, relative to appropriations for salary and wages,
20 hours, fringe benefits, and other conditions of employment."

21 ~~Section 2:~~ Section 59-1606, R.C.M. 1947, is amended to
22 read as follows:

23 "59-1606. Petition on representation matters--
24 hearing--notice--election. (1) Whenever in accordance with
25 such rules as may be prescribed by the board, a petition has

1 been filed:

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

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

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

11 (b) by the public employer alleging that one or more
12 labor organizations has presented to it a claim to be
13 recognized as the exclusive representative in an appropriate
14 unit, the board or an agent of the board shall investigate
15 the petition, and if it has reasonable cause to believe that
16 a question of representation exists, it shall provide for an
17 appropriate hearing upon due notice. If the board or an
18 agent of the board finds that there is a question of
19 representation, it shall direct an election by secret ballot
20 to determine whether, and by which labor organization the
21 employees desire to be represented or whether they desire to
22 have no labor organization represent them and shall certify
23 the results thereof. Only those labor organizations which
24 have been designated by more than ten percent (10%) of the
25 employees in the unit found to be appropriate shall be

1 placed on the ballot. Nothing in this section prohibits the
 2 waiving of hearings by stipulation for the purpose of a
 3 consent election in conformity with the rules of the board.

4 (2) In order to assure employees the fullest freedom in
 5 exercising the rights guaranteed by this act, the board or
 6 an agent of the board shall decide the unit appropriate for
 7 the purpose of collective bargaining, and shall consider
 8 such factors as community of interest, wages, hours, fringe
 9 benefits, and other working conditions of the employees
 10 involved, the history of collective bargaining, common
 11 supervision, common personnel policies, extent of
 12 integration of work functions and interchange among
 13 employees affected, ~~and~~ the desires of the employees, and
 14 the efficiency of government operation.

15 (3) An election shall not be directed in any bargaining
 16 unit or in any subdivision thereof within which, in the
 17 preceding twelve (12) month period, a valid election has
 18 been held. The board or an agent of the board shall
 19 determine who is eligible to vote in the election and shall
 20 establish rules governing the election. Unless the majority
 21 vote is for no representation by a labor organization and in
 22 any election where none of the choices for a representative
 23 on the ballot receives a majority, a runoff election shall
 24 be conducted; the ballot providing for selection between the
 25 two choices receiving the largest and the second largest

1 number of valid votes cast in the election. A labor
 2 organization which receives the majority of the votes cast
 3 in an election shall be certified by the board as the
 4 exclusive representative."

5 Section 3. There is a new R.C.M. section that reads as
 6 follows:

7 Conduct of bargaining by two or more labor
 8 organizations. Notwithstanding any other provision of this
 9 chapter, whenever two or more exclusive representatives
 10 represent state employees in the same classification, the
 11 designated authorized representative of the state of Montana
 12 and the exclusive representatives shall meet jointly at
 13 reasonable times and bargain in good faith with respect to
 14 wages, hours, fringe benefits, and other conditions of
 15 employment which require legislative action. The direct
 16 placement of state employees into salary grades and steps in
 17 the state classification and pay plan is not a negotiable
 18 matter.

-End-