

1 *State* BILL NO. *163*  
 2 INTRODUCED BY *Himal Lakshmi Nelson Shrestha*  
 3 *Goodwin Olson Aber Lou Matheson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT CONCERNING STRIKES BY  
 5 PUBLIC EMPLOYEES AND PUBLIC EMPLOYEE ORGANIZATIONS; AND  
 6 AMENDING SECTION 59-1603, R.C.M. 1947."

7  
 8 WHEREAS, public governments are monopolies that provide  
 9 services that cannot otherwise be provided; and

10 WHEREAS, public governments receive and allocate public  
 11 resources; and

12 WHEREAS, public governments have an obligation to  
 13 insure the uninterrupted delivery of public services; and

14 WHEREAS, employees in the public service have a  
 15 responsibility to provide efficient and uninterrupted  
 16 delivery of public services.

17  
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Strikes by public employees. (1) No public  
 20 employee or employee organization may engage in a strike or  
 21 cause, instigate, encourage, or condone a strike against a  
 22 public employer.

23 (2) Whenever a strike occurs, the employer shall  
 24 petition the appropriate district court for relief. The  
 25 court may assess penalties against the striking employees or

1 employee organization, or both.

2 Section 2. Section 59-1603, R.C.M. 1947, is amended to  
 3 read as follows:

4 "59-1603. Employees' right to join or form labor  
 5 organization and engage in collective bargaining activities.

6 (1) Public employees shall have, and shall be protected in  
 7 the exercise of, the right of self-organization, to form,  
 8 join or assist any labor organization, to bargain  
 9 collectively through representatives of their own choosing  
 10 on questions of wages, hours, fringe benefits, and other  
 11 conditions of employment and to engage in other concerted  
 12 activities, ~~except strikes against the employer,~~ for the  
 13 purpose of collective bargaining or other mutual aid or  
 14 protection, free from interference, restraint or coercion.

15 (2) Public employees and their representatives shall  
 16 recognize the prerogatives of public employers to operate  
 17 and manage their affairs in such areas as but not limited  
 18 to:

- 19 (a) direct employees;
- 20 (b) hire, promote, transfer, assign, and retain
- 21 employees;
- 22 (c) relieve employees from duties because of lack of
- 23 work or funds or under conditions where continuation of such
- 24 work be inefficient and nonproductive;
- 25 (d) maintain the efficiency of government operations;

1 (e) determine the methods, means, job classifications,  
2 and personnel by which government operations are to be  
3 conducted;

4 (f) take whatever actions may be necessary to carry  
5 out the missions of the agency in situations of emergency;

6 (g) establish the methods and processes by which work  
7 is performed.

8 (3) Labor organizations designated in accordance with  
9 the provisions of this act are responsible for representing  
10 the interest of all employees in the exclusive bargaining  
11 unit without discrimination for the purposes of collective  
12 bargaining with respect to rates of pay, hours, fringe  
13 benefits, and other conditions of employment.

14 (4) Certification as an exclusive representative shall  
15 be extended or continued as the case may be only to a labor  
16 or employee organization the written bylaws of which provide  
17 for and guarantee the following rights and safeguards and  
18 whose practices conform to such rights and safeguards as:  
19 provisions are made for democratic organization and  
20 procedures; elections are conducted pursuant to adequate  
21 standards and safeguards; controls are provided for the  
22 regulation of officers and agents having fiduciary  
23 responsibility to the organization; and requirements exist  
24 for maintenance of sound accounting and fiscal controls  
25 including annual audits.

1 (5) No public employee who is a member of a bona fide  
2 religious sect, or division thereof, the established and  
3 traditional tenets or teachings of which oppose a  
4 requirement that a member of such sect or division join or  
5 financially support any labor organization, may be required  
6 to join or financially support any labor organization as a  
7 condition of employment, if such public employee pays, in  
8 lieu of periodic union dues, initiation fees, and  
9 assessments, at the same time or times such periodic union  
10 dues, initiation fees, and assessments would otherwise be  
11 payable, a sum of money equivalent to such periodic union  
12 dues, initiation fees, and assessments, to a nonreligious,  
13 nonunion charity designated by the labor organization. Such  
14 public employee shall furnish to such labor organization  
15 written receipts evidencing such payments and failure to  
16 make such payments or furnish such receipts shall subject  
17 the employee to the same sanctions as would nonpayment of  
18 dues, initiation fees or assessments under the applicable  
19 collective bargaining agreement.

20 A public employee desiring to avail himself or herself  
21 to the right of nonassociation with a labor organization as  
22 provided in this subsection shall make written application  
23 to the chairman of the board of personnel appeals. Within  
24 ten days of the date of receipt of such application, the  
25 chairman shall appoint a committee of three (3) consisting

1 of a clergyman not connected with the sect in question, a  
2 labor union official not directly connected with the labor  
3 organization in question and a member of the public at  
4 large, who shall be the chairman. The committee shall,  
5 within ten (10) days of the date of its appointment, meet at  
6 the locale of either the employee's residence or place of  
7 employment and, after receiving written or oral  
8 presentations from all interested parties, determine by a  
9 majority vote whether or not such public employee qualifies  
10 for the right of nonassociation with such labor  
11 organization. The committee's decision shall be made in  
12 writing within three (3) days of the meeting date and a copy  
13 thereof shall be forthwith mailed to such public employee,  
14 labor organization and the chairman of the board of  
15 personnel appeals."

-End-

Committee on Labor & Employment Relations

Without Recommendation

Senate BILL NO. 163  
Hinal Gordon Nelson Shreve  
Goodover Olson Aber Lou Mack Boyle

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