

1 Senate BILL NO. 380
 2 INTRODUCED BY Das

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT ANY AGENCY
 5 OF STATE GOVERNMENT FROM INTERFERING, RESTRAINING, COERCING,
 6 OR RETALIATING AGAINST A STATE EMPLOYEE WHO EXERCISES THE
 7 RIGHT OF APPEAL UNDER THE CLASSIFICATION AND WAGE ACT;
 8 AMENDING SECTION 82A-1014, R.C.M. 1947; AND PROVIDING AN
 9 IMMEDIATE EFFECTIVE DATE."

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

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

14 "82A-1014. Board of personnel appeals created. (1)
 15 There is created a board of personnel appeals.

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

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

24 (4) (a) Any An employee or his representative
 25 affected by the operation of Title 59, chapter 9, R.C.M.

1 1947, is entitled to file a complaint with the board and to
 2 be heard, under the provisions of a grievance procedure to
 3 be prescribed by the board.

4 (b) Direct or indirect interference, restraint,
 5 coercion, or retaliation by an employee's supervisor or the
 6 agency for which the employee works or by any other agency
 7 of state government against an employee because the employee
 8 has filed or attempted to file a complaint with the board
 9 shall also be basis for a complaint and shall entitle the
 10 employee to file a complaint with the board and to be heard,
 11 under the provisions of the grievance procedure prescribed
 12 by the board.

13 (c) If upon the preponderance of the evidence taken at
 14 the hearing the board is of the opinion that the employee is
 15 aggrieved, it may issue an order to the ~~department of~~
 16 administration appropriate agency or agencies of state
 17 government requiring such action ~~of the department~~ as will
 18 resolve the employee's grievance. In any hearing the board
 19 is not bound by statutory or common law rules of evidence.
 20 An action attempting to revise the class specifications of
 21 or series of class specifications involving an employee
 22 exercising a right conferred by this section prior to final
 23 resolution or entry of a final order with respect thereto is
 24 presumed to be an interference, restraint, coercion, or
 25 retaliation prohibited by this section. The presumption is

1 ~~rebuttable.~~

2 (d) The board or the employee may petition for the
3 enforcement of the board's order and for appropriate
4 temporary relief, and shall file in the district court the
5 record of the proceedings. Upon the filing of the petition,
6 the district court shall have jurisdiction of the
7 proceeding. Thereafter, the district court shall set the
8 matter for hearing. After the hearing, the district court
9 shall issue its order granting such temporary or permanent
10 relief as it considers just and proper. No objection that
11 has not been raised before the board shall be considered by
12 the court unless the failure or neglect to raise the
13 objection is excused because of extraordinary circumstances.
14 The findings of the board with respect to questions of fact,
15 if supported by substantial evidence on the record
16 considered as a whole, shall be conclusive.

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

19 Section 2. Effective date. This act is effective on
20 its passage and approval.

-End-

Approved by Committee
on State Administration

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17 and industry for administrative purposes only as prescribed
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19 (3) The board consists of five ~~(5)~~ members appointed
20 by the governor. Two ~~(2)~~ members shall represent management,
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23 represent a neutral position.
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25 by the operation of Title 59, chapter 9, ~~R.C.M. 1947~~ is

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25 presumed to be an interference, restraint, coercion, or

1 retaliation prohibited by this section UNLESS SUCH REVIEW
2 WAS COMMENCED OR SCHEDULED PRIOR TO FILING OF THE APPEAL AND
3 WAS NOT PROMPTED BY THE GRIEVANCE APPEALED FROM. The
4 presumption is rebuttable.

5 (d) The board or the employee may petition for the
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17 The findings of the board with respect to questions of fact,
18 if supported by substantial evidence on the record
19 considered as a whole, shall be conclusive.

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

22 Section 2. Effective date. This act is effective on
23 its passage and approval.

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