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

9 10

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

12 Section 1. Section 82A-1014. R.C.M. 1947. is amended

13 to read as follows:

#82A-1014. Board of personnel appeals created. (1) 14 15

There is created a board of personnel appeals.

- 16 (2) The board is allocated to the department of labor and industry for administrative purposes only as prescribed 17 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 f2+ mempers shall represent employees or employee 22 organizations of the state, and one (+) member shall represent a neutral position. 23
- 24 (4) (a) Any An employee or his representative affected by the operation of Title 59, chapter 9, Recember 25

1947 v 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.

- (b) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the agency for which the employee works or by any other adency of state government 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 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 the hearing the board is of the opinion that the employee is 14 15 aggrieved, it may issue an order to the department-of 16 administration appropriate agency or agencies of state government requiring such action of-the-department as will 17 resolve the employee's grievance. In any hearing the board 18 19 is not bound by statutory or common law rules of evidence. An action attempting to revise the class specifications of 20 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

## rebuttable.

- (d) The board or the employee may patition 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 patition, 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 shall issue its order granting such temporary or permanent relief as it considers just and proper. No objection that has not been raised before the board shall be considered by the court unless the failure or neglect to raise the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.
- 17 (5) The board is designated a quasi-judicial board for purposes of section 82A-112.\*\*
- Section 2. Effective date. This act is effective on its passage and approval.

-End-

45th Legislature SB 0380/02

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Approved	by Committee
on State	Administration

INTRODUCED BY TONE A BILL FOR AN ACT ENTITLED: MAN ACT TO PROHIBIT ANY AGENCY OF STATE GOVERNMENT FROM INTERFERING, RESTRAINING, COERCING, OR RETALIATING AGAINST A STATE EMPLOYEE WHO EXERCISES THE RIGHT OF APPEAL UNDER THE CLASSIFICATION AND WAGE ACT: ĩ AMENDING SECTION 82A-1014, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 82A-1014, R.C.M. 1947, is amended 12 13 to read as follows: "82A-1014. Board of personnel appeals created. (1) 14 There is created a board of personnel appeals. 15 (2) The board is allocated to the department of labor l o 17 and industry for administrative purposes only as prescribed 18 in section 82A-108. (3) The board consists of five (5) members appointed 19 by the governor. Two +2+ members shall represent management. 20 two (2) members shall represent employees or employee 21 organizations of the state, and one (1) member shall 22 represent a neutral position. 23 (4) (a) Any An employee or his representative affected 24

by the operation of Title 59, chapter 9, R#6\*M#-1947y is

SENATE BILL NO. 380

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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.

(b) Direct or indirect interference, restraint,

coercion, or retaliation by an employee's supervisor or the

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of state government 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.

the hearing the board is of the opinion that the employee is aggrieved, it may issue an order to the department of administration appropriate agency or agencies of state government 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. An action attempting to revise the class specifications of or series of class specifications involving an employee exercising a right conferred by this section IN A WAY WHICH HOULD ADVERSELY AFFECT THE EMPLOYEE prior to final resolution or entry of a final order with respect thereto is presumed to be an interference, restraint, coercion, or

\$8 0380/02

- retaliation prohibited by this section UNLESS SUCH REVIEW
  WAS COMMENCED OR SCHEDULED PRIOR TO FILING OF THE APPEAL AND
  WAS NOT PROMPTED BY THE GRIEVANCE APPEALED FROM. The
  presumption is rebuttable.
- 5 (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 7 8 record of the proceedings. Upon the filing of the petition, 4 the district court shall have jurisdiction of the 10 proceeding. Thereafter, the district court shall set the matter for hearing. After the hearing, the district court 11 12 shall issue its order granting such temporary or permanent relief as it considers just and proper. No objection that 13 14 has not been raised before the board shall be considered by 15 the court unless the failure or neglect to raise the objection is excused because of extraordinary circumstances. 16 17 The findings of the board with respect to questions of fact, 18 if supported by substantial evidence on the record considered as a whole, shall be conclusive. 19
- 20 (5) The board is designated a quasi-judicial board for purposes of section 82A-112.\*\*
- 22 Section 2. Effective date. This act is effective on 23 its passage and approval.

-End-

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SR 0380/02 45th Legislature 58 0380/02

SENATE BILL NO. 380 1 INTRODUCED BY TOWE

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

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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) 14 There is created a board of personnel appeals. 15

- (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 f2; members shall represent management. two f2) members shall represent employees or employee organizations of the state, and one (1) member shall represent a neutral position.
- (4) (a) Any An employee or his representative affected 24 25 by the operation of Title 59, chapter 9, Rucumu-1947y 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.

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(b) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the agency for which the employee works or by any other agency of state government 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 11 by the board. 12

(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 edministration appropriate agency or agencies of state government 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. An action attempting to revise the class specifications of or series of class specifications involving an employee exercising a right conferred by this section IN A HAY WHICH 22 HUULD ADVERSELY AFFECT THE EMPLOYEE prior to final resolution or entry of a final order with respect thereto is presumed to be an interference, restraint, coercion, or

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MAS COMMENCED OR SCHEDULED PRIOR TO FILING OF THE APPEAL AND

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presumption is rebuttable.

- (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 shall issue its order granting such temporary or permanent relief as it considers just and proper. No objection that has not been raised before the board shall be considered by the court unless the failure or neglect to raise the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.
- 21 purposes of section 82A-112.\*\*
  22 Section 2. Effective date. This act is effective on

(5) The board is designated a quasi-judicial board for

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its passage and approval.

-3- SB 380

45th Legislature SB 0380/02 SB 0380/02

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2	INTRODUCED BY TOWE
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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."
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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
13	in section 82A-108.
19	(3) The board consists of five (5) members appointed
20	by the governor. Two <del>(2)</del> members shall represent management.
21	two <del>(2)</del> members shall represent employees or employee
22	organizations of the state, and one <del>(1)</del> member shall

represent a neutral position.

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CONSTR RELL NO 200

- 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.
- (b) Direct or indirect interference, restraint,

  coercion, or retaliation by an employee's supervisor or the

  agency for which the employee works or by any other agency

  of state government 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 edministration appropriate agency or agencies of state government 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. An action attempting to revise the class specifications of or series of class specifications involving an employee exercising a right conferred by this section IN A WAY MHICH MOULD ADVERSELY AFFECT THE EMPLOYEE prior to final resolution or entry of a final order with respect thereto is presumed to be an interference, restraint, coercion, or

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- (5) The board is designated a quasi-judicial board for
   purposes of section \$2A-112.\*\*
- Section 2. Effective date. This act is effective onits passage and approval.

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-End-