

HOUSE BILL NO. 212

INTRODUCED BY SOUTH, FASBENDER

IN THE HOUSE

January 17, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 7, 1979	Committee recommend bill do pass as amended. Report adopted.
February 8, 1979	Printed and placed on members' desks.
February 9, 1979	Second reading, do pass.
February 10, 1979	Considered correctly engrossed.
February 12, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 13, 1979	Introduced and referred to Committee on Labor and Employment Relations.
March 5, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 7, 1979	Second reading, concurred in.
March 10, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 12, 1979	Returned from second house. Concurred in as amended.
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March 14, 1979

Second reading, amendments
adopted.

March 15, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 212
2 INTRODUCED BY Scott Finkbeiner

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4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO COLLECTIVE
5 BARGAINING OF PUBLIC EMPLOYEES; EXCEPTING CONFIDENTIAL
6 EMPLOYEES FROM THE DEFINITION OF A PUBLIC EMPLOYEE;
7 RESTRICTING LABOR ORGANIZATIONS REPRESENTING EMPLOYEES OF
8 THE BOARD OF PERSONNEL APPEALS TO UNAFFILIATED LABOR
9 ORGANIZATIONS; AMENDING SECTION 39-31-103, MCA."

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

12 Section 1. Section 39-31-103, MCA, is amended to read:
13 "39-31-103. Definitions. When used in this chapter,
14 the following definitions apply:

15 (1) "Public employer" means the state of Montana or
16 any political subdivision thereof, including but not limited
17 to any town, city, county, district, school board, board of
18 regents, public and quasi-public corporation, housing
19 authority or other authority established by law, and any
20 representative or agent designated by the public employer to
21 act in its interest in dealing with public employees.

22 (2) "Public employee" means a person employed by a
23 public employer in any capacity, except elected officials,
24 persons directly appointed by the governor, supervisory
25 employees ~~and~~ management officials, ~~and~~ confidential

1 ~~employees~~, as defined in subsections (3) ~~and~~ (4), ~~and~~ (12)
2 below, or members or of any state board or commission who
3 serve the state intermittently, school district clerks and
4 school administrators, registered professional nurses
5 performing service for health care facilities, professional
6 engineers and engineers-in-training, and includes any
7 individual whose work has ceased as a consequence of or in
8 connection with any unfair labor practice or concerted
9 employee action.

10 (3) "Supervisory employee" means any individual having
11 authority in the interest of the employer to hire, transfer,
12 suspend, lay off, recall, promote, discharge, assign,
13 reward, discipline other employees, having responsibility to
14 direct them, to adjust their grievances, or effectively to
15 recommend such action, if in connection with the foregoing
16 the exercise of such authority is not of a merely routine or
17 clerical nature but requires the use of independent
18 judgment.

19 (4) "Management officials" means representatives of
20 management having authority to act for the agency on any
21 matters relating to the implementation of agency policy.

22 (5) "Labor organization" means any organization or
23 association of any kind in which employees participate and
24 which exists for the primary purpose of dealing with
25 employers concerning grievances, labor disputes, wages,

1 rates of pay, hours of employment, fringe benefits, or other
2 conditions of employment.

3 (6) "Exclusive representative" means the labor
4 organization which has been designated by the board as the
5 exclusive representative of employees in an appropriate unit
6 or has been so recognized by the public employer.

7 (7) "Board" means the board of personnel appeals
8 provided for in 2-15-1705.

9 (8) "Person" includes one or more individuals, labor
10 organizations, public employees, associations, corporations,
11 legal representatives, trustees, trustees in bankruptcy, or
12 receivers.

13 (9) "Unfair labor practice" means any unfair labor
14 practice listed in 39-31-401 or 39-31-402.

15 (10) "Labor dispute" includes any controversy
16 concerning terms, tenure, or conditions of employment or
17 concerning the association or representation of persons in
18 negotiating, fixing, maintaining, changing, or seeking to
19 arrange terms or conditions of employment, regardless of
20 whether the disputants stand in the proximate relation of
21 employer and employee.

22 (11) "Appropriate unit" means a group of public
23 employees banded together for collective bargaining purposes
24 as designated by the board.

25 ~~(12) "Confidential employee" means an employee who~~

1 ~~assists and acts in a confidential capacity to a person who~~
2 ~~formulates, determines, or administers management policies~~
3 ~~in the field of labor relations or personnel management."~~

4 NEW SECTION. Section 2. Labor organization
5 representing employees of the board to be unaffiliated. A
6 labor organization representing employees of the board may
7 not affiliate or associate itself with a labor organization
8 that represents any employees other than employees of the
9 board. The board may not certify a labor organization as
10 the exclusive representative of the employees of the board
11 if, at the time of certification or thereafter, the labor
12 organization is associated or affiliated with a labor
13 organization that represents employees other than employees
14 of the board.

15 Section 3. Codification. It is intended that section 2
16 be codified as an integral part of Title 39, chapter 31,
17 part 2; and the provisions of Title 39, chapter 31, apply to
18 section 2.

-End-

Approved by Committee
on Labor & Employment
Relations

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(2) "Public employee" means a person employed by a public employer in any capacity, except elected officials, persons directly appointed by the governor, supervisory employees and management officials, and confidential

~~employees~~, as defined in subsections (3) and (4), and (12) below, or members or of any state board or commission who serve the state intermittently, school district clerks and school administrators, registered professional nurses performing service for health care facilities, professional engineers and engineers-in-training, and includes any individual whose work has ceased as a consequence of or in connection with any unfair labor practice or concerted employee action.

(3) "Supervisory employee" means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, having responsibility to direct them, to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(4) "Management officials" means representatives of management having authority to act for the agency on any matters relating to the implementation of agency policy.

(5) "Labor organization" means any organization or association of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages,

1 rates of pay, hours of employment, fringe benefits, or other
2 conditions of employment.

3 (6) "Exclusive representative" means the labor
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5 exclusive representative of employees in an appropriate unit
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4 ~~management ANY PERSON FOUND BY THE BOARD TO BE A~~
5 ~~CONFIDENTIAL LABOR RELATIONS EMPLOYEE AND ANY PERSON~~
6 ~~EMPLOYED IN THE PERSONNEL DIVISION, DEPARTMENT OF~~
7 ~~ADMINISTRATION, WHO ACTS WITH DISCRETIONARY AUTHORITY IN THE~~
8 ~~CREATION OR REVISION OF STATE CLASSIFICATION~~
9 ~~SPECIFICATIONS."~~

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March 5, 1979

SENATE STANDING COMMITTEE REPORT
(Labor & Employment Relations)

That House Bill No. 212 be amended as follows:

1. Page 3, line 25 through line 4 on page 4.

Following: "means" on line 25

Strike: Line 25 through "management" on line 4, page 4

Insert: "any person found by the board to be a confidential labor relations employee and any person employed in the personnel division, department of administration, who acts with discretionary authority in the creation or revision of state classification specifications"