

HOUSE BILL NO. 349

INTRODUCED BY ANDERSON, KEYSER, DOZIER, HARRINGTON, PORTER

IN THE HOUSE

January 24, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 13, 1979	Committee recommend bill do pass as amended. Report adopted.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Labor and Employment Relations.
March 9, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 12, 1979	Second reading, concurred in.
March 15, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 16, 1979	Returned from second house. Concurred in as amended.
March 17, 1979	Second reading, amendments adopted.

March 19, 1979

Third reading, amendments
adopted. Sent to enrolling.

Reported correctly enrolled.

1 *HOUSE* BILL NO. *249*
 2 INTRODUCED BY *Ameson - Hayden - Dwyer*
 3 *Harrington - Foster*

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 39-31-406, MCA, TO REQUIRE ISSUANCE OF FINAL ORDERS
 6 CONCERNING UNFAIR LABOR COMPLAINTS WITHIN 6 MONTHS FROM
 7 FILING OF THE COMPLAINT."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 39-31-406, MCA, is amended to read:

11 "39-31-406. Hearing on complaint -- findings -- orders.

12 (1) The complainant and the person charged shall be parties
 13 and shall appear in person or otherwise give testimony at
 14 the place and time fixed in the notice of hearing. In the
 15 discretion of the board or its agent conducting the hearing,
 16 any other person may be allowed to intervene in the
 17 proceeding and present testimony.

18 (2) In any hearing the board is not bound by the rules
 19 of evidence prevailing in the courts.

20 (3) The testimony taken by the board or its agent
 21 shall be reduced to writing and filed with the board.
 22 Thereafter, in its discretion the board upon notice may take
 23 further testimony or hear argument.

24 (4) If, upon the preponderance of the testimony taken,
 25 the board is of the opinion that any person named in the

1 complaint has engaged in or is engaging in an unfair labor
 2 practice, it shall state its findings of fact and shall
 3 issue and cause to be served on the person an order
 4 requiring him to cease and desist from the unfair labor
 5 practice and to take such affirmative action, including
 6 reinstatement of employees with or without back pay, as will
 7 effectuate the policies of this chapter. The order may
 8 further require the person to make reports from time to time
 9 showing the extent to which he has complied with the order.
 10 No order of the board shall require the reinstatement of any
 11 individual as an employee who has been suspended or
 12 discharged or the payment to him of any back pay if it is
 13 found that the individual was suspended or discharged for
 14 cause.

15 (5) If, upon the preponderance of the testimony taken,
 16 the board is not of the opinion that the person named in the
 17 complaint has engaged in or is engaging in the unfair labor
 18 practice, then the board shall state its findings of fact
 19 and shall issue an order dismissing the complaint.

20 (6) If the evidence is presented before a member of
 21 the board or before an examiner, the member or the examiner,
 22 as the case may be, shall issue and cause to be served on
 23 the parties to the proceeding a proposed decision, together
 24 with a recommended order, which shall be filed with the
 25 board, and if no exceptions are filed within 20 days after

LC 1211/01

1 service thereof upon the parties or within such further
2 period as the board may authorize, the recommended order
3 shall become the order of the board. The board shall issue a
4 final order within 6 months after a complaint is filed."

-End-

Approved by Committee
on Labor & Employment
Relations

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
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CONCERNING UNFAIR LABOR COMPLAINTS WITHIN 6 MONTHS FROM
FILEING--BF AFTER SUBMITTING THE COMPLAINT TO THE HEARING
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and shall appear in person or otherwise give testimony at
the place and time fixed in the notice of hearing. In the
discretion of the board or its agent conducting the hearing,
any other person may be allowed to intervene in the
proceeding and present testimony.

(2) In any hearing the board is not bound by the rules
of evidence prevailing in the courts.

(3) The testimony taken by the board or its agent
shall be reduced to writing and filed with the board.
Thereafter, in its discretion the board upon notice may take
further testimony or hear argument.

(4) If, upon the preponderance of the testimony taken,

the board is of the opinion that any person named in the
complaint has engaged in or is engaging in an unfair labor
practice, it shall state its findings of fact and shall
issue and cause to be served on the person an order
requiring him to cease and desist from the unfair labor
practice and to take such affirmative action, including
reinstatement of employees with or without back pay, as will
effectuate the policies of this chapter. The order may
further require the person to make reports from time to time
showing the extent to which he has complied with the order.
No order of the board shall require the reinstatement of any
individual as an employee who has been suspended or
discharged or the payment to him of any back pay if it is
found that the individual was suspended or discharged for
cause.

(5) If, upon the preponderance of the testimony taken,
the board is not of the opinion that the person named in the
complaint has engaged in or is engaging in the unfair labor
practice, then the board shall state its findings of fact
and shall issue an order dismissing the complaint.

(6) If the evidence is presented before a member of
the board or before an examiner, the member or the examiner,
as the case may be, shall issue and cause to be served on
the parties to the proceeding a proposed decision, together
with a recommended order, which shall be filed with the

1 board, and if no exceptions are filed within 20 days after
2 service thereof upon the parties or within such further
3 period as the board may authorize, the recommended order
4 shall become the order of the board. The board shall issue a
5 final order within 6 months after a complaint is filed
6 SUBMITTED TO THE HEARING OFFICER."

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 39-31-406, MCA, TO REQUIRE ISSUANCE OF FINAL ORDERS CONCERNING UNFAIR LABOR COMPLAINTS WITHIN 6 MONTHS FROM FILING--OF AFTER SUBMITTING THE COMPLAINT TO THE HEARING OFFICER."

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(2) In any hearing the board is not bound by the rules of evidence prevailing in the courts.

(3) The testimony taken by the board or its agent shall be reduced to writing and filed with the board. Thereafter, in its discretion the board upon notice may take further testimony or hear argument.

(4) If, upon the preponderance of the testimony taken,

the board is of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged or the payment to him of any back pay if it is found that the individual was suspended or discharged for cause.

(5) If, upon the preponderance of the testimony taken, the board is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the complaint.

(6) If the evidence is presented before a member of the board or before an examiner, the member or the examiner, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the

1 board, and if no exceptions are filed within 20 days after
2 service thereof upon the parties or within such further
3 period as the board may authorize, the recommended order
4 shall become the order of the board. The board shall issue a
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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 39-31-406, MCA, TO REQUIRE ISSUANCE OF FINAL ORDERS CONCERNING UNFAIR LABOR COMPLAINTS WITHIN 6 2 MONTHS FROM FILE~~ING~~ ~~OF~~ ~~AFTER~~ ~~SUBMITTING~~ THE COMPLAINT TO THE HEARING OFFICER."

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the board is of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged or the payment to him of any back pay if it is found that the individual was suspended or discharged for cause.

(5) If, upon the preponderance of the testimony taken, the board is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the complaint.

(6) If the evidence is presented before a member of the board or before an examiner, the member or the examiner, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the

1 board, and if no exceptions are filed within 20 days after
2 service thereof upon the parties or within such further
3 period as the board may authorize, the recommended order
4 shall become the order of the board. The board shall issue a
5 final order within 6 months after a complaint is filed
6 SUBMITTED TO THE HEARING OFFICER."

-End-

March 9, 1979

SENATE STANDING COMMITTEE REPORT
(Labor & Employment Relations)

That House Bill No. 349 be amended as follows:

1. Title, line 6.
Following: "WITHIN"
Strike: "6"
Insert: "5"

2. Page 3, line 5.
Following: "within"
Strike: "6"
Insert: "5"