

House Bill 196

In The House

January 14, 1981

Introduced and referred
to Committee on State
Administration.

January 23, 1981

Committee recommend bill
do not pass.

1 HOUSE BILL NO. 196
2 INTRODUCED BY Brand Menahan

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING FIRE
5 DEPARTMENTS THROUGHOUT THE STATE AND LOCAL GOVERNMENT
6 ENTITIES IN WHICH A DISSOLVED FIRE DEPARTMENT WAS LOCATED TO
7 GIVE HIRING PREFERENCE TO FIREFIGHTERS WHO WERE EMPLOYED BY
8 THE DISSOLVED FIRE DEPARTMENT; PROVIDING FOR CERTAIN
9 CONDITIONS, EXCEPTIONS, AND TIME LIMITATIONS; AND PROVIDING
10 FOR ENFORCEMENT IN DISTRICT COURT."

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

12 Section 1. Definitions. Unless the context requires
13 otherwise, as used in [sections 2 through 7] the following
14 definitions apply:

15 (1) "Bypass for hire" means to hire a person other
16 than a firefighter on the preferential hiring list or to
17 hire from the list in an order other than that of seniority.

18 (2) "Fire department" means a fire company, fire
19 department, or fire district organized under Title 7,
20 chapter 33, that employs at least one full-time paid
21 firefighter. The term does not mean a fire company, fire
22 department, or fire district that employs only volunteer
23 firefighters.

24 (3) "Preferential hiring list" or "list" means the

1 list of firefighters required in [section 2] who are
2 employed by a fire department at the time of the dissolution
3 of a fire department.

4 Section 2. Preferential hiring list required upon
5 dissolution of fire department. Upon dissolution of a fire
6 department, the chief executive officer of the local
7 government entity in which the fire department was located
8 shall compile a preferential hiring list which specifies the
9 name, address, and seniority date of each firefighter
10 employed at the time of dissolution and shall provide the
11 following entities with the list:

- 12 (1) each fire department in the state; and
- 13 (2) the clerk of the local government entity in which
14 the fire department was located.

15 Section 3. Preferential hiring of firefighters
16 required in operating fire departments -- time limitations
17 -- maximum age restriction not imposed. (1) For any
18 firefighter position that becomes available at an operating
19 fire department during the time specified in subsection (2),
20 the fire department shall make a written offer of
21 employment, by certified mail, to the firefighters on the
22 preferential hiring list, by seniority, before seeking other
23 applicants or hiring another individual for the position.
24 However, the department is not required to hire a
25 firefighter from the list who was not in good standing while

1 employed by the dissolved fire department or who is no
2 longer capable of performing the duties of the position.

3 (2) An operating fire department must give hiring
4 preference to the firefighters on a preferential hiring list
5 for a period of 4 years from the date that a fire department
6 dissolves or for a period of time not to exceed the length
7 of time a firefighter was employed by the dissolved fire
8 department, whichever is less.

9 (3) The maximum age restriction at the time of
10 original appointment imposed by 7-33-4107 does not apply to
11 a firefighter hired from the preferential hiring list.

12 Section 4. Exemption to preferential hiring if active
13 list of retired firefighters exists. An operating fire
14 department is exempt from the requirements of [section 3] if
15 that department has an active list of retired firefighters
16 required in 7-33-4125 at the time of a hire. When the
17 department no longer has a list of retired firefighters
18 pursuant to 7-33-4125, it must comply with [section 3].

19 Section 5. Written reason required if hiring
20 preference not given. A fire department that bypasses for
21 hire a firefighter on the preferential hiring list must
22 provide to each bypassed firefighter the reasons in writing
23 for his not being hired.

24 Section 6. Preferential hiring of firefighters for
25 positions in local government. (1) A firefighter on the

1 preferential hiring list applying for a position within the
2 local government entity in which the dissolved fire
3 department was located shall be given hiring preference if
4 he is equally qualified as the top candidate for that
5 position.

6 (2) A local government entity must comply with
7 subsection (1) for a period of 4 years from the date that a
8 fire department dissolves or for a period of time not to
9 exceed the length of time a firefighter was employed by the
10 dissolved fire department, whichever is less.

11 (3) It is the burden of the firefighter to provide the
12 prospective local government employer with documentation
13 from the local government clerk regarding his status on the
14 preferential hiring list.

15 Section 7. Enforcement of hiring preference for
16 firefighter positions. Any firefighter qualified for hiring
17 preference pursuant to [sections 3 and 4] who was bypassed
18 for hire by an operating fire department may petition, by
19 verified petition, the district court of the state of
20 Montana in the county in which the work is to be performed.
21 The petition shall set forth the facts of the firefighter's
22 qualifications and competency and his status on the
23 preferential hiring list or other qualifications warranting
24 the firefighter to preference under [section 3]. Upon filing
25 of such petition, any judge in the court shall issue an

1 order to show cause to the operating fire department
2 directing the department hiring authority to appear in the
3 court at a specified time and place, not less than 5 or more
4 than 10 days after the filing of the verified petition, to
5 show cause, if any exists, why the firefighter entitled to
6 hiring preference should not be employed by the fire
7 department. The district court has jurisdiction upon the
8 proper showing to issue its order directing and ordering the
9 fire department to comply with this law in giving the hiring
10 preference provided for.

11 Section 8. Severability. If a part of this act is
12 invalid, all valid parts that are severable from the invalid
13 part remain in effect. If a part of this act is invalid in
14 one or more of its applications, the part remains in effect
15 in all valid applications that are severable from the
16 invalid applications.

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