

HOUSE BILL NO. 201

INTRODUCED BY ADDY, WINSLOW

**BY REQUEST OF THE PERSONNEL AND LABOR
RELATIONS STUDY COMMISSION**

IN THE HOUSE

January 13, 1983	Introduced and referred to Committee on Labor and Employment Relations.
January 20, 1983	Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks.
January 25, 1983	Second reading, do pass as amended.
January 26, 1983	Correctly engrossed.
January 27, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 28, 1983	Introduced and referred to Committee on Labor and Employment Relations.
March 9, 1983	Committee recommend bill be concurrent in. Report adopted.
March 11, 1983	Second reading, concurrent in.
March 14, 1983	Third reading, concurrent in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 14, 1983

Returned to House.

March 15, 1983

Sent to enrolling.

Reported correctly enrolled.

House BILL NO. *201*

INTRODUCED BY *Ally Windsor*
BY REQUEST OF THE PERSONNEL AND LABOR
RELATIONS STUDY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN
THE FINAL ORDER CONCERNING AN UNFAIR LABOR COMPLAINT MUST BE
ISSUED FROM 5 MONTHS AFTER A COMPLAINT IS SUBMITTED TO THE
HEARING OFFICER TO 5 MONTHS AFTER FINAL BRIEFS ARE SUBMITTED
TO THE HEARING OFFICER; AMENDING SECTION 39-31-406, MCA."

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

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

"39-31-406. Hearing on complaint — findings — order.

(1) The complainant and the person charged shall be parties
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

1 the parties to the proceeding a proposed decision, together
2 with a recommended order, which shall be filed with the
3 board, and if no exceptions are filed within 20 days after
4 service thereof upon the parties or within such further
5 period as the board may authorize, the recommended order
6 shall become the order of the board. The board shall issue a
7 final order within 5 months after ~~a complaint is~~ final
8 briefs are submitted to the hearing officer or, if no briefs
9 are submitted, then within 5 months after the hearing."

-End-

Approved by Committee
on Labor & Employment
Relations

1 House BILL NO. 201
2 INTRODUCED BY Ally Ulmer
3 BY REQUEST OF THE PERSONNEL AND LABOR
4 RELATIONS STUDY COMMISSION
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN
7 THE FINAL ORDER CONCERNING AN UNFAIR LABOR COMPLAINT MUST BE
8 ISSUED FROM 5 MONTHS AFTER A COMPLAINT IS SUBMITTED TO THE
9 HEARING OFFICER TO 5 MONTHS AFTER FINAL BRIEFS ARE SUBMITTED
10 TO THE HEARING OFFICER; AMENDING SECTION 39-31-406, MCA."
11

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

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

14 "39-31-406. Hearing on complaint — findings — order.

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

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

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

1 further testimony or hear argument.

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

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

23 (6) If the evidence is presented before a member of
24 the board or before an examiner, the member or the examiner,
25 as the case may be, shall issue and cause to be served on

1 the parties to the proceeding a proposed decision, together
2 with a recommended order, which shall be filed with the
3 board, and if no exceptions are filed within 20 days after
4 service thereof upon the parties or within such further
5 period as the board may authorize, the recommended order
6 shall become the order of the board. The board shall issue a
7 final order within 5 months after ~~a complaint is~~ final
8 briefs are submitted to the hearing officer or, if no briefs
9 are submitted, then within 5 months after the hearing."

-End-

HOUSE BILL NO. 201

INTRODUCED BY ADDY, WINSLOW

BY REQUEST OF THE PERSONNEL AND LABOR

RELATIONS STUDY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN THE FINAL ORDER CONCERNING AN UNFAIR LABOR COMPLAINT MUST BE ISSUED FROM 5 MONTHS AFTER A COMPLAINT IS SUBMITTED TO THE HEARING OFFICER TO 5 MONTHS AFTER FINAL BRIEFS ARE SUBMITTED TO THE HEARING OFFICER; AMENDING SECTION 39-31-406, MCA."

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

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

"39-31-406. Hearing on complaint -- findings -- order.

(1) The complainant and the person charged shall be parties 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

1 the parties to the proceeding a proposed decision, together
2 with a recommended order, which shall be filed with the
3 board, and if no exceptions are filed within 20 days after
4 service thereof upon the parties or within such further
5 period as the board may authorize, the recommended order
6 shall become the order of the board. The board shall issue a
7 final order within 5 months after a--complaint--is final
8 ~~briefs are~~ submitted to the hearing officer ~~or--if--no--briefs~~
9 ~~are--submitted--then--within--5--months--after--the--hearing.~~ IF
10 ~~BRIEFS ARE TO BE SUBMITTED, BUT EITHER OR BOTH OF THE~~
11 ~~PARTIES FAIL TO SUBMIT THEIR BRIEF ON THE DATE SET BY THE~~
12 ~~HEARING EXAMINER AT THE CLOSE OF THE HEARING ON THE MATTER,~~
13 ~~THEN THE BOARD SHALL ISSUE A FINAL ORDER WITHIN 5 MONTHS~~
14 ~~AFTER THE DATE THE LAST BRIEF WAS ORDERED TO BE SUBMITTED.~~
15 ~~IF NO BRIEFS ARE TO BE SUBMITTED, THE BOARD SHALL ISSUE A~~
16 ~~FINAL ORDER WITHIN 5 MONTHS AFTER THE HEARING."~~

-End-

HOUSE BILL NO. 201

INTRODUCED BY ADDY, WINSLOW

BY REQUEST OF THE PERSONNEL AND LABOR

RELATIONS STUDY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE TIME WHEN THE FINAL ORDER CONCERNING AN UNFAIR LABOR COMPLAINT MUST BE ISSUED FROM 5 MONTHS AFTER A COMPLAINT IS SUBMITTED TO THE HEARING OFFICER TO 5 MONTHS AFTER FINAL BRIEFS ARE SUBMITTED TO THE HEARING OFFICER; AMENDING SECTION 39-31-406, MCA."

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

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

"39-31-406. Hearing on complaint -- findings -- order.

(1) The complainant and the person charged shall be parties 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

1 the parties to the proceeding a proposed decision, together
2 with a recommended order, which shall be filed with the
3 board, and if no exceptions are filed within 20 days after
4 service thereof upon the parties or within such further
5 period as the board may authorize, the recommended order
6 shall become the order of the board. The board shall issue a
7 final order within 5 months after a--complaint--is final
8 ~~briefs are submitted to the hearing officer~~ ~~any-if-no-briefs~~
9 ~~are--submitted--then--within-5-months-after-the-hearing.~~ IF
10 ~~BRIEFS ARE TO BE SUBMITTED, BUT EITHER OR BOTH OF THE~~
11 ~~PARTIES FAIL TO SUBMIT THEIR BRIEF ON THE DATE SET BY THE~~
12 ~~HEARING EXAMINER AT THE CLOSE OF THE HEARING ON THE MATTER,~~
13 ~~THEN THE BOARD SHALL ISSUE A FINAL ORDER WITHIN 5 MONTHS~~
14 ~~AFTER THE DATE THE LAST BRIEF WAS ORDERED TO BE SUBMITTED.~~
15 ~~IF NO BRIEFS ARE TO BE SUBMITTED, THE BOARD SHALL ISSUE A~~
16 ~~FINAL ORDER WITHIN 5 MONTHS AFTER THE HEARING."~~

-End-