

HOUSE BILL NO. 390

INTRODUCED BY ADDY, DRISCOLL, WINSLOW

BY REQUEST OF THE PERSONNEL AND LABOR RELATIONS
STUDY COMMISSION

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Labor and Employment Relations.
January 29, 1983	Committee recommend bill do pass. Report adopted.
January 31, 1983	Bill printed and placed on members' desks.
February 1, 1983	Second reading, do pass.
February 2, 1983	Considered correctly engrossed.
February 3, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 4, 1983	Introduced and referred to Committee on Labor and Employment Relations.
March 21, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in. Ayes, 49; Noes, 0.

IN THE HOUSE

March 25, 1983

Returned to House with
amendments.

March 31, 1983

Second reading, amendments
concurred in.

April 1, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 390
 2 INTRODUCED BY Ally Driscoll
 3 BY REQUEST OF THE PERSONNEL AND
 4 LABOR RELATIONS STUDY COMMISSION
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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE UNFAIR LABOR
 7 PRACTICES BY HEALTH CARE FACILITIES AND LABOR ORGANIZATIONS
 8 REPRESENTING NURSES; TO ESTABLISH PROCEDURES FOR
 9 ADJUDICATING UNFAIR LABOR PRACTICES CHARGES; AND TO RESOLVE
 10 APPROPRIATE UNIT AND REPRESENTATION QUESTIONS CONSISTENT
 11 WITH THE PUBLIC EMPLOYEES COLLECTIVE BARGAINING PROVISIONS;
 12 AMENDING SECTIONS 39-32-102 THROUGH 39-32-106 AND 39-32-109,
 13 MCA; AND REPEALING SECTIONS 39-32-107, 39-32-108, AND
 14 39-32-111, MCA."
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 39-32-102, MCA, is amended to read:

18 "39-32-102. Definitions. As used in this chapter,
 19 unless the context clearly requires otherwise, the following
 20 definitions apply:

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 22 employees (as herein defined) of a health care facility
 23 having similar duties and qualifications determined pursuant
 24 to 39-32-106.

25 (2) "Board" means the board of personnel appeals

1 provided for in 2-15-1705.

2 ~~(2)(3)~~ "Employee" means a registered professional or
 3 licensed practical nurse performing services for
 4 compensation for a health care facility but does not include
 5 a member of a religious order assigned to a health care
 6 facility by the order as a part of her obligation to the
 7 order.

8 ~~(3)(4)~~ "Health care facility" means a hospital or
 9 nursing home or other agency or establishment employing
 10 employees as defined in this chapter, whether operated
 11 publicly or privately, having as one of its principal
 12 purposes the preservation of health or the care of sick or
 13 infirm individuals or both.

14 ~~(4)(5)~~ "Strike" shall mean any work stoppage caused by
 15 the employees of a health care facility, as defined in
 16 subsection ~~(3)~~ ~~(4)~~ of this section, that interferes with the
 17 operation of the health care facility or affects the care of
 18 patients in the health care facility."

19 Section 2. Section 39-32-103, MCA, is amended to read:

20 "39-32-103. Rules. The ~~department of labor and~~
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 23 ~~provide adequate notice and opportunity to be heard to all~~
 24 ~~interested parties as to elections, and so as to carry into~~
 25 effect the provisions of this chapter."

Section 3. Section 39-32-104, MCA, is amended to read:

"39-32-104. Hearings for determination of appropriate unit. The ~~department of labor and industry board~~ may set the time and place for hearings for determination of the composition of appropriate units when requested to make such determination under 39-32-106(2) ~~or 39-32-100(1)~~."

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"39-32-105. General classifications for health care facilities and appropriate units — petition for removal from general classification. (1) The ~~department of labor and industry board~~ may determine, on its own motion by holding hearings or conducting such investigations as it thinks necessary, general classifications for health care facilities and appropriate units.

(2) When such determination has been made hereunder and when an application has been made by a health care facility or an employee organization for a specific determination as to it, the ~~department board~~ may make such determination on the basis of such general classification.

(3) The health care facility or employee organization may, within 30 days after notice to it of such determination, file a request for a hearing upon written petition which shall set forth the facts which it believes remove it from such general classification, and hearing shall be held on such petition."

Section 5. Section 39-32-106, MCA, is amended to read:

"39-32-106. Determination of appropriate bargaining unit. (1) The composition of an appropriate unit in a health care facility, for purposes of this law, may be determined by mutual consent between such facility and the employees thereof.

(2) In the event no such mutual consent is available, then either the facility or representatives of employees may apply to the ~~department of labor and industry board~~ and said ~~department board~~, through a duly designated agent, shall make a determination of the composition of such an appropriate unit.

(3) In determining such appropriate unit, professional employees may not be included in the same unit with nonprofessional employees unless a majority of professional employees in a proposed unit desire such inclusion. Weight shall be accorded similarity of duties, licensure, and conditions of employment, among other relevant factors, in determining an appropriate unit."

Section 6. Section 39-32-109, MCA, is amended to read:

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(1) interfere with or restrain or coerce employees in

1 any manner in the exercise of their right of
2 self-organization;

3 (2) initiate, create, dominate, contribute to, or
4 interfere with the formation or administration of any
5 employee organization that has collective bargaining as one
6 of its principal functions;

7 (3) discriminate in regard to hire terms or conditions
8 of employment when a purpose of such is to discourage
9 membership in an employee organization that has collective
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23 NEW SECTION. Section 7. Unfair labor practices of
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3 oaths and affirmations under this chapter as it does under
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6 NEW SECTION. Section 11. Codification instruction.
7 Sections 7 through 10 are intended to be codified as an
8 integral part of Title 39, chapter 32, and the provisions of
9 Title 39, chapter 32, apply to sections 7 through 10.

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Approved by Committee
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Relations

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-End-

March 21, 1983

SENATE STANDING COMMITTEE REPORT
(Labor & Employment Relations)

That House Bill No. 390 be amended as follows:

1. Page 6, line 16.

Following: "parties"

Strike: "at state or local levels"

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INTRODUCED BY ADDY, DRISCOLL, WINSLOW

BY REQUEST OF THE PERSONNEL AND

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"39-32-109. ~~Improper employment practices~~ Unfair labor practices of health care facility. It is an ~~improper employment~~ unfair labor practice for a health care facility to do one or more of the following:

(1) interfere with or restrain or coerce employees in

1 any manner in the exercise of their right of
2 self-organization;

3 (2) initiate, create, dominate, contribute to, or
4 interfere with the formation or administration of any
5 employee organization that has collective bargaining as one
6 of its principal functions;

7 (3) discriminate in regard to hire terms or conditions
8 of employment when a purpose of such is to discourage
9 membership in an employee organization that has collective
10 bargaining as one of its principal functions;

11 (4) refuse to meet and bargain in good faith with the
12 duly designated representatives of an appropriate bargaining
13 unit of its employees. For the purpose of this subsection,
14 it is a requirement of bargaining in good faith that the
15 parties be willing to reduce in writing and have their
16 representative sign any agreement arrived at through
17 negotiations and discussion.

18 (5) unilaterally exclude from work or prevent from
19 working or discharge any one or more employees when the
20 purpose of such action is in whole or in part to interfere
21 with or coerce or intimidate an employee in the exercise of
22 rights assured in this law."

23 **NEW SECTION.** Section 7. Unfair labor practices of
24 labor organization. It is an unfair labor practice for a
25 labor organization or its agents to:

1 (1) restrain or coerce employees in the exercise of
2 the right to:

3 (a) form, join, or assist any labor organization;

4 (b) bargain collectively through representatives of
5 their own choosing; or

6 (c) engage in other concerted activities for the
7 purpose of collective bargaining or other mutual aid or
8 protection;

9 (2) restrain or coerce an employer in the selection of
10 his representative for the purpose of collective bargaining
11 or the adjustment of grievances;

12 (3) refuse to bargain collectively in good faith with
13 an employer if it has been designated as the exclusive
14 representative of employees;

15 (4) use agency shop fees for contributions to
16 political candidates or parties ~~at state or local levels.~~

17 **NEW SECTION.** Section 8. Adjudication of unfair labor
18 practices complaints. Violations of 39-32-109 or [section 7]
19 are remediable by the board, and board orders are
20 enforceable and reviewable by the court in the same manner
21 as provided for in Title 39, chapter 31, part 4.

22 **NEW SECTION.** Section 9. Representation questions
23 decided by the board. Representation questions shall be
24 decided by the board in the same manner as provided for in
25 39-31-207 through 39-31-210.

1 NEW SECTION. Section 10. Subpoena power. The board
2 has the same power to subpoena witnesses and administer
3 oaths and affirmations under this chapter as it does under
4 Title 39, chapter 31, and the provisions of 39-31-106 and
5 39-31-107 are incorporated by reference into this chapter.

6 NEW SECTION. Section 11. Codification instruction.
7 Sections 7 through 10 are intended to be codified as an
8 integral part of Title 39, chapter 32, and the provisions of
9 Title 39, chapter 32, apply to sections 7 through 10.

10 NEW SECTION. Section 12. Repealer. Sections
11 39-32-107, 39-32-108, and 39-32-111, MCA, are repealed.

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