

SENATE BILL NO. 92

Introduced: 01/11/83

Referred to Committee on Labor & Employment Relations: 01/11/83

Hearing: 1/25/83

Died in Committee.

1 *Senate* BILL NO. *92*
2 INTRODUCED BY *W. Delaney/Wanda*
3 BY REQUEST OF THE PERSONNEL AND LABOR
4 RELATIONS STUDY COMMISSION
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
7 ISSUANCE OF AN INJUNCTION AGAINST PUBLIC EMPLOYEES ENGAGED
8 IN A STRIKE OR OTHER CONCERTED INTERRUPTION OF WORK THAT HAS
9 AN IMPACT ON ESSENTIAL PUBLIC SERVICES; AND REQUIRING THE
10 PARTIES TO SUBMIT TO FINAL-OFFER ARBITRATION THAT IS BINDING
11 ON THE APPROPRIATING AUTHORITY IF AN INJUNCTION IS ISSUED."
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Strikes endangering essential public
15 services. After a strike, work stoppage, or other concerted
16 interruption of work or refusal to work occurs that has an
17 impact upon essential public services, the public employer
18 may, upon filing a verified application for injunctive
19 relief in a district court in the county in which the action
20 has occurred, seek an injunction against the action.

21 Section 2. Findings necessary before injunction
22 issued. (1) The court may issue an injunction if it finds
23 that continuation of the action that the public employer
24 seeks to enjoin would pose an imminent danger to the health,
25 safety, or welfare of the public. In making such a finding,

1 the court shall consider:

2 (a) the kind and nature of the public services that
3 are being interrupted or not delivered;

4 (b) the status and circumstances of the citizens or
5 groups of citizens whose health, safety, or welfare is
6 adversely affected by continuation of the action;

7 (c) the duration of the action;

8 (d) the ability of the public employer to provide, in
9 whole or in reasonable part, the services through other
10 employees, including supervisory employees, or through other
11 means;

12 (e) the participation of other employees, not directly
13 involved in the action, and the degree to which their
14 participation or lack of participation has affected other
15 services not provided by the employees directly involved in
16 the action; and

17 (f) if the action affects public education, whether
18 the duration of the action has endangered the ability of the
19 school district to comply with statutory requirements to
20 provide a minimum number of days of education within a
21 required period of time.

22 (2) The court may not enjoin any action based solely
23 upon the fact that the action has caused inconvenience or
24 discomfort to the public.

25 Section 3. Final-offer arbitration -- designation of

1 arbitrator. (1) If the court issues an injunction, the
2 injunctive order must contain a requirement that the parties
3 shall submit to compulsory final-offer arbitration all
4 unresolved issues between the parties. The decision of the
5 arbitrator is binding upon the parties and upon the
6 governing body responsible for appropriating funds.

7 (2) For purposes of this section, "final-offer
8 arbitration" means arbitration in which the arbitrator is
9 required to select only one of the final offers submitted to
10 the arbitrator by the parties.

11 (3) The parties shall decide upon the procedure by
12 which the arbitrator is selected. If the parties do not
13 agree upon the procedure for selection of the arbitrator,
14 the arbitrator shall be selected as provided in 39-34-102.

15 Section 4. Prohibited conditions for issuance of
16 injunction. The court may not condition issuance of an
17 injunction upon matters relating to the positions of the
18 parties, the nature or history of the bargaining process, or
19 the pendency of any unfair labor practice charges or
20 allegations made before the board, unless the board has made
21 a final order as to any such charges or allegations.

22 Section 5. Codification instruction. Sections 1
23 through 4 are intended to be codified as an integral part of
24 Title 39, chapter 31, and the provisions of Title 39,
25 chapter 31, apply to sections 1 through 4.

1 Section 6. Severability. If a part of this act is
2 invalid, all valid parts that are severable from the invalid
3 part remain in effect. If a part of this act is invalid in
4 one or more of its applications, the part remains in effect
5 in all valid applications that are severable from the
6 invalid applications.

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