

SENATE BILL NO. 154

Introduced: 01/14/83

Referred to Committee on Labor & Employment Relations: 01/14/83

Hearing: 1/25/83

Report: 02/07/83, Do Pass, AS Amended

2nd Reading: 02/09/83

3rd Reading: 02/11/83

Transmitted to House: 2/11/83

Referred to Committee on Labor & Employment Relations: 02/12/83

Hearing: 3/3/83

Report: 03/07/83, Be Not Concurred In

Killed in Committee: 03/08/83

1 Senate BILL NO. 154
2 INTRODUCED BY Feeling - FARR

3 BY REQUEST OF THE

4 PERSONNEL AND LABOR RELATIONS STUDY COMMISSION

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE
7 GRANDFATHER CLAUSE CONTAINED IN TITLE 39, CHAPTER 31, MCA,
8 COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES, BY PROVIDING
9 THAT COLLECTIVE BARGAINING UNITS RECOGNIZED BY THE
10 GRANDFATHER CLAUSE MAY CONTAIN SUPERVISORY EMPLOYEES,
11 MANAGEMENT OFFICIALS, OR OTHER EMPLOYEES EXCLUDED FROM TITLE
12 39, CHAPTER 31, MCA, ONLY AS LONG AS THOSE EMPLOYEES
13 CONTINUE TO OCCUPY THE POSITIONS THEY OCCUPIED ON JULY 1,
14 1973; AUTHORIZING THE BOARD OF PERSONNEL APPEALS TO MAKE
15 UNIT CLARIFICATIONS OF BARGAINING UNITS RECOGNIZED BY THE
16 GRANDFATHER CLAUSE; AMENDING SECTION 39-31-109, MCA."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 Section 1. Section 39-31-109, MCA, is amended to read:

20 "39-31-109. Existing collective bargaining agreements
21 not affected. Nothing (1) Except as provided in subsection
22 (3), nothing in this chapter shall be construed to remove
23 recognition of established collective bargaining agreements
24 already recognized or in existence prior to the effective
25 ~~date of this act~~ July 1, 1973.

1 (2) Except as provided in subsection (3), collective
2 bargaining units recognized or in existence prior to July 1,
3 1973, may contain only public employees.

4 (3) If on July 1, 1973, a collective bargaining unit
5 contained a position occupied by an employee who was not a
6 public employee, as defined by 39-31-103, the employee who
7 occupies that position on October 1, 1983, may, if he
8 desires, remain in the bargaining unit as long as he
9 continues to occupy the same position or another position
10 that was contained in the unit on July 1, 1973, unless the
11 board determines through the unit clarification procedure
12 that the employee should be excluded from the unit. If that
13 employee leaves a position of the bargaining unit that was
14 occupied by an employee who was not a public employee on
15 July 1, 1973, his replacement may no longer be included in
16 the bargaining unit unless the replacement has, since
17 October 1, 1983, continuously occupied one or more
18 positions, all of which were contained in the unit on July
19 1, 1973.

20 (4) The board may grant a petition from a public
21 employer or a bargaining representative for a clarification
22 of a bargaining unit recognized or in existence prior to
23 July 1, 1973. The petition and the unit clarification by the
24 board are subject to procedures established by the board."

-End-

-2- INTRODUCED BILL
SEN 154

Approved by Committee
on Labor & Employment
Relations

SENATE BILL NO. 154
INTRODUCED BY KEATING, FAGG
BY REQUEST OF THE
PERSONNEL AND LABOR RELATIONS STUDY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE GRANDFATHER CLAUSE CONTAINED IN TITLE 39, CHAPTER 31, MCA, COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES, BY PROVIDING THAT COLLECTIVE BARGAINING UNITS RECOGNIZED BY THE GRANDFATHER CLAUSE MAY CONTAIN SUPERVISORY EMPLOYEES POSITIONS, MANAGEMENT OFFICIALS POSITIONS, OR OTHER EMPLOYEES POSITIONS EXCLUDED FROM TITLE 39, CHAPTER 31, MCA, ONLY AS LONG AS THOSE EMPLOYEES CONTINUE TO OCCUPY THE POSITIONS THEY OCCUPIED IF THE POSITIONS EXISTED ON JULY 1, 1973, AND THE EMPLOYEES OCCUPYING THOSE POSITIONS ON OCTOBER 1, 1983, CONTINUE TO OCCUPY THOSE POSITIONS OR OCCUPY OTHER POSITIONS CONTAINED IN THE UNIT ON JULY 1, 1973; AUTHORIZING THE BOARD OF PERSONNEL APPEALS TO MAKE UNIT CLARIFICATIONS OF BARGAINING UNITS RECOGNIZED BY THE GRANDFATHER CLAUSE; AMENDING SECTION 39-31-109, MCA."

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

Section 1. Section 39-31-109, MCA, is amended to read:

"39-31-109. Existing collective bargaining agreements not affected. Nothing (1) Except as provided in subsection

(3), nothing in this chapter shall be construed to remove recognition of established collective bargaining agreements already recognized or in existence prior to the effective date of this act July 1, 1973.

(2) Except as provided in subsection (3), collective bargaining units recognized or in existence prior to July 1, 1973, may contain only public employees.

(3) If on July 1, 1973, a collective bargaining unit contained a position occupied by an employee who was not a public employee as defined by 39-31-103, the employee who occupies that position on October 1, 1983, may, if he desires, remain in the bargaining unit as long as he continues to occupy the same position or another position that was contained in the unit on July 1, 1973, unless the board determines through the unit clarification procedure that the employee should be excluded from the unit, if that employee leaves a position of the bargaining unit that was occupied by an employee who was not a public employee on July 1, 1973, his replacement may no longer be included in the bargaining unit unless the replacement has, since October 1, 1983, continuously occupied one or more positions all of which were contained in the unit on July 1, 1973, that is currently occupied by an employee who is not a public employee as defined in 39-31-103, then that employee may, after October 1, 1983, elect to either remain

1 IN THE BARGAINING UNIT IN THAT SAME POSITION OR AN
2 EQUIVALENT POSITION, OR TO BE EXCLUDED FROM THE BARGAINING
3 UNIT. IN ALL CASES, FUTURE REPLACEMENTS MADE FOR SUCH
4 POSITIONS MUST BE IN ACCORDANCE WITH SUBSECTION (2). THIS
5 SUBSECTION DOES NOT APPLY TO BARGAINING UNITS THAT HAVE
6 PRIVATE PENSION PLANS.

7 (4) The board may grant a petition from a public
8 employer or a bargaining representative for a clarification
9 of a bargaining unit recognized or in existence prior to
10 July 1, 1973. The petition and the unit clarification by the
11 board are subject to procedures established by the board."

-End-

SENATE BILL NO. 154
INTRODUCED BY KEATING, FAGG

BY REQUEST OF THE
PERSONNEL AND LABOR RELATIONS STUDY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE GRANDFATHER CLAUSE CONTAINED IN TITLE 39, CHAPTER 31, MCA, COLLECTIVE BARGAINING FOR PUBLIC EMPLOYEES, BY PROVIDING THAT COLLECTIVE BARGAINING UNITS RECOGNIZED BY THE GRANDFATHER CLAUSE MAY CONTAIN SUPERVISORY EMPLOYEES POSITIONS, MANAGEMENT OFFICIALS POSITIONS, OR OTHER EMPLOYEES POSITIONS EXCLUDED FROM TITLE 39, CHAPTER 31, MCA, ONLY AS LONG AS--THOSE--EMPLOYEES--CONTINUE--TO--OCCUPY--THE POSITIONS--THEY--OCCUPIED IF THE POSITIONS EXISTED ON JULY 1, 1973, AND THE EMPLOYEES OCCUPYING THOSE POSITIONS ON OCTOBER 1, 1983, CONTINUE TO OCCUPY THOSE POSITIONS OR OCCUPY OTHER POSITIONS CONTAINED IN THE UNIT ON JULY 1, 1973; AUTHORIZING THE BOARD OF PERSONNEL APPEALS TO MAKE UNIT CLARIFICATIONS OF BARGAINING UNITS RECOGNIZED BY THE GRANDFATHER CLAUSE; AMENDING SECTION 39-31-109, MCA."

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

Section 1. Section 39-31-109, MCA, is amended to read:

"39-31-109. Existing collective bargaining agreements not affected. Nothing ~~all except as provided in subsection~~

~~(3) nothing in this chapter shall be construed to remove recognition of established collective bargaining agreements already recognized or in existence prior to the effective date of this act July 1, 1973.~~

~~(2) Except as provided in subsection (3), collective bargaining units recognized or in existence prior to July 1, 1973, may contain only public employees.~~

~~(3) If on July 1, 1973, a collective bargaining unit contained a position occupied by an employee who was not a public employee as defined by 39-31-103, the employee who occupies that position on October 1, 1983, may, if he desires, remain in the bargaining unit as long as he continues to occupy the same position or another position that was contained in the unit on July 1, 1973, unless the board determines through the unit clarification procedure that the employee should be excluded from the unit; if that employee leaves a position of the bargaining unit that was occupied by an employee who was not a public employee on July 1, 1973, his replacement may no longer be included in the bargaining unit unless the replacement has, since October 1, 1983, continuously occupied one or more positions all of which were contained in the unit on July 1, 1973. THAT IS CURRENTLY OCCUPIED BY AN EMPLOYEE WHO IS NOT A PUBLIC EMPLOYEE AS DEFINED IN 39-31-103, THEN THAT EMPLOYEE MAY, AFTER OCTOBER 1, 1983, ELECT TO EITHER REMAIN~~

1 IN THE BARGAINING UNIT IN THAT SAME POSITION OR AN
2 EQUIVALENT POSITION, OR TO BE EXCLUDED FROM THE BARGAINING
3 UNIT, IN ALL CASES, FUTURE REPLACEMENTS MADE FOR SUCH
4 POSITIONS MUST BE IN ACCORDANCE WITH SUBSECTION (2). THIS
5 SUBSECTION DOES NOT APPLY TO BARGAINING UNITS THAT HAVE
6 PRIVATE PENSION PLANS.

7 (4) The board may grant a petition from a public
8 employer or a bargaining representative for a clarification
9 of a bargaining unit recognized or in existence prior to
10 July 1, 1973. The petition and the unit clarification by the
11 board are subject to procedures established by the board."

-End-