

House BILL NO. 264

INTRODUCED BY Ellis Talbot Annott
Benedict Kerr Kenard Hertel

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC EMPLOYER'S FAILURE OR REFUSAL TO GRANT A WAGE INCREASE CONTAINED IN AN EXPIRED COLLECTIVE BARGAINING AGREEMENT DOES NOT CONSTITUTE AN UNFAIR LABOR PRACTICE; AMENDING SECTION 39-31-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 39-31-401, MCA, is amended to read:

"39-31-401. Unfair labor practices of public employer. It is an unfair labor practice for a public employer to:

(1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in 39-31-201;

(2) dominate, interfere, or assist in the formation or administration of any labor organization; ~~however, subject.~~ Subject to rules adopted by the board under 39-31-104, an employer is not prohibited from permitting employees to confer with ~~him~~ the employer during working hours without loss of time or pay;

(3) discriminate in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization; ~~however, nothing.~~ Nothing in this chapter or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require, as a condition of employment, that an employee who is not or does not become a union member, must have an amount equal to the union initiation fee and monthly dues deducted from ~~his~~ the employee's wages in the same manner as checkoff of union dues;

(4) discharge or otherwise discriminate against an employee because ~~he~~ the employee has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter; or

(5) refuse to bargain collectively in good faith with an exclusive representative. Nothing in this chapter or in any other statute in this state requires a public employer to grant a wage increase that is contained in an expired collective bargaining agreement."

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

House BILL NO. 264

INTRODUCED BY Ellis Taine Amott
Benedict Keenan Kenard Hertel

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC EMPLOYER'S FAILURE OR REFUSAL TO GRANT A WAGE INCREASE CONTAINED IN AN EXPIRED COLLECTIVE BARGAINING AGREEMENT DOES NOT CONSTITUTE AN UNFAIR LABOR PRACTICE; AMENDING SECTION 39-31-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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1 HOUSE BILL NO. 264

2 INTRODUCED BY ELLIS, TOEWS, ARNOTT, BENEDICT, HERRON, KEENAN, HERTEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC EMPLOYER'S FAILURE OR
5 REFUSAL TO GRANT A WAGE INCREASE CONTAINED IN AN EXPIRED COLLECTIVE BARGAINING
6 AGREEMENT DOES NOT CONSTITUTE AN UNFAIR LABOR PRACTICE; PROVIDING AN EXEMPTION FOR
7 FIREFIGHTERS IN CITIES OF THE FIRST AND SECOND CLASS; AMENDING SECTION 39-31-401, MCA;
8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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12 **Section 1.** Section 39-31-401, MCA, is amended to read:

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14 employer to:

15 (1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in
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18 ~~however, subject.~~ Subject to rules adopted by the board under 39-31-104, an employer is not prohibited
19 from permitting employees to confer with ~~him~~ the employer during working hours without loss of time or
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22 in order to encourage or discourage membership in any labor organization; ~~however, nothing.~~ Nothing in
23 this chapter or in any other statute of this state precludes a public employer from making an agreement
24 with an exclusive representative to require, as a condition of employment, that an employee who is not or
25 does not become a union member, must have an amount equal to the union initiation fee and monthly dues
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27 (4) discharge or otherwise discriminate against an employee because ~~he~~ the employee has signed
28 or filed an affidavit, petition, or complaint or given any information or testimony under this chapter; or

29 (5) refuse to bargain collectively in good faith with an exclusive representative. Nothing EXCEPT
30 AS PROVIDED IN 7-33-4128, NOTHING in this chapter or in any other statute in this state requires a public

1 employer to grant a wage increase that is contained in an expired collective bargaining agreement."

2

3 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

4

-END-

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2 INTRODUCED BY ELLIS, TOEWS, ARNOTT, BENEDICT, HERRON, KEENAN, HERTEL

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC EMPLOYER'S FAILURE OR
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 7 FIREFIGHTERS IN CITIES OF THE FIRST AND SECOND CLASS; AMENDING SECTION 39-31-401, MCA;
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1 employer to grant a wage increase that is contained in an expired collective bargaining agreement."

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3 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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-END-

OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

April 8, 1995

The Honorable John Mercer
Speaker of the House
State Capitol
Helena MT 59620

The Honorable Bob Brown
President of the Senate
State Capitol
Helena MT 59620

Dear Speaker Mercer and President Brown:

In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby veto House Bill 264, "AN ACT PROVIDING THAT A PUBLIC EMPLOYER'S FAILURE OR REFUSAL TO GRANT A WAGE INCREASE CONTAINED IN AN EXPIRED COLLECTIVE BARGAINING AGREEMENT DOES NOT CONSTITUTE AN UNFAIR LABOR PRACTICE; PROVIDING AN EXEMPTION FOR FIREFIGHTERS IN CITIES OF THE FIRST AND SECOND CLASS; AMENDING SECTION 39-31-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" for the following reasons.

House Bill 264 provides that it is not an unfair labor practice for a public employer to withhold wage increases contained in a collective bargaining agreement following expiration of the agreement and in the absence of a new contract.

House Bill 264 addresses the current practice whereby a public employee, a teacher for example, is paid according to an employment contract's stated method of placement on a pay matrix ("steps and lanes") and in accord with the number of years of experience and education credits that the teacher actually has. As the teacher fulfills certain additional and time-in-service requirements, automatic pay adjustments are made according to movement on the matrix.

In the absence of a bargaining impasse, existing law requires that a school district must continue to pay salaries according to the

expired collective bargaining contract pending agreement on a successor contract. In other words, the employer may not unilaterally change the pay provisions of the expired contract, unless the union has waived bargaining on the issue or an impasse in bargaining has been reached.

House Bill 264 alters the current negotiating practices by permitting an employer to unilaterally change an employee's terms of compensation during the period between collective bargaining agreements. I do not think this change is warranted.

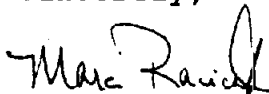
In the first place, the ability to collectively bargain an end to automatic "step and lane" pay increases is an option for school boards under existing law. It is therefore only the period between employment contracts that House Bill 264 addresses.

It strikes me as unfair that when an employment contract expires, an employee who continues to work and who becomes eligible for a step increase under the expired agreement may not be paid for that step increment because a new agreement has not yet been reached. I assume that it is desirable for public employees to continue to perform their responsibilities even though the old labor agreement has expired and negotiations for the new agreement are ongoing. Obviously when they continue to perform services until new contractual terms can be agreed upon, there is an expectation that those services will be compensated. If the terms of the previous agreement are not applicable, which terms should be?

By accepting the benefit of continued services performed by the employee, surely the compensation paid under the most recent contract is evidence of the value of those services, until such time as a new value can be settled upon.

I do not believe that we should legislatively alter a widely-recognized and longstanding practice of collective bargaining that has developed over the course of many years.

Sincerely,



MARC RACICOT
Governor