

House BILL NO. 543

INTRODUCED BY Wagner

Devlin Steel John Foster

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE REQUIREMENTS FOR POSTING OF SECURITY WHEN AN INJUNCTION OR RESTRAINING ORDER IS SOUGHT; REMOVING THE EXEMPTION FOR GOVERNMENTAL ENTITIES; REQUIRING SECURITY TO COVER LOST WAGES, SALARIES, AND BENEFITS WHEN AN INDUSTRIAL OPERATION OR ACTIVITY IS ENJOINED OR RESTRAINED; AND AMENDING SECTIONS 27-19-306, 27-19-307, AND 27-19-403, MCA."

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

Section 1. Section 27-19-306, MCA, is amended to read:

"27-19-306. Security for damages. (1) On granting an injunction or restraining order, the court or judge shall require a written undertaking to be given by the applicant, ~~in such sum as the court considers proper,~~ for the payment of ~~such~~ the costs and damages ~~as that~~ as that may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. ~~The~~ Except as provided in subsection (2), the undertaking:

(a) must be fixed at a sum that the judge considers proper; and

(b) may not be required waived:

(i) in domestic disputes; or when the state or a state agency, a county or subdivision thereof, or a municipal corporation is the party seeking the injunction or restraining order. In any case, the court in its discretion may waive the undertaking in

(ii) in the interest of justice.

(2)(a) If a party seeks an injunction or restraining order against an industrial operation or activity, the written undertaking must consist of a bond with one or more corporate sureties authorized by law. The amount of the bond must be set in an amount that at a minimum includes all of the wages, salaries, and benefits of the employees of the party enjoined or restrained during the time that the injunction or restraining order is in effect. The bond must be conditioned to indemnify the employees of the party enjoined or restrained against lost wages, salaries, and benefits sustained by reason of the injunction or restraining order.

1 (b) As used in subsection (2)(a), "industrial operation or activity" includes but is not limited to
 2 construction, mining, timber, and grazing operations.

3 ~~(2)(3)~~ Within 5 days after the service of the injunction, the party enjoined may ~~except~~ object
 4 the sufficiency of the sureties. If ~~he~~ the party enjoined fails to ~~do so~~ object, ~~he waives~~ all objections to ~~them~~
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 11 or restraining order, including the reasonable expenses incurred in dissolving the injunction or restraining
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 14 **Section 2.** Section 27-19-307, MCA, is amended to read:

15 **"27-19-307. New undertaking for security following hearing.** On a hearing to show cause, the
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 20 liable ~~thereon~~ only until the new undertaking is given and approved, ~~and no longer~~. A new undertaking
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-END-

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2 INTRODUCED BY WAGNER, DEVLIN, HERTEL, BAER, FOSTER, FORRESTER, GROSFIELD, JABS, COLE,
3 KNOX

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2 -END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 16, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 543 (third reading copy -- blue), respectfully report that HB 543 be amended as follows and as so amended be concurred in.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Title, line 7.

Following: "SECURITY"

Insert: "IN AN AMOUNT NOT EXCEEDING \$50,000"

2. Page 1, lines 27 through 29.

Strike: "that" on line 27 through "effect" on line 29


Insert: "not exceeding \$50,000"

3. Page 2, lines 10 through 13.

Strike: "A" on line 10 through "order" on line 13

Insert: "This section does not prohibit a person who is wrongfully enjoined from filing an action for any claim for relief otherwise available to that person in law or equity and does not limit the recovery that may be obtained in that action"

-END-


Amd. Coord.
GA Sec. of Senate


Senator Carrying Bill

HB 543
SENATE
611152SC.SRF

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INTRODUCED BY WAGNER, DEVLIN, HERTEL, BAER, FOSTER, FORRESTER, GROSFIELD, JABS, COLE,
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(2)(a) If a party seeks an injunction or restraining order against an industrial operation or activity, the written undertaking must consist of a bond with one or more corporate sureties authorized by law. The amount of the bond must be set in an amount that at a minimum includes all of the wages, salaries, and benefits of the employees of the party enjoined or restrained during the time that the injunction or restraining order is in effect NOT EXCEEDING \$50,000. The bond must be conditioned to indemnify the employees of the party enjoined or restrained against lost wages, salaries, and benefits sustained by reason

1 of the injunction or restraining order.

2 (b) As used in subsection (2)(a), "industrial operation or activity" includes but is not limited to
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10 ~~(4) A party found to have been wrongfully enjoined or restrained may bring a civil action against~~
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12 ~~or restraining order, including the reasonable expenses incurred in dissolving the injunction or restraining~~
13 ~~order.~~ THIS SECTION DOES NOT PROHIBIT A PERSON WHO IS WRONGFULLY ENJOINED FROM FILING
14 AN ACTION FOR ANY CLAIM FOR RELIEF OTHERWISE AVAILABLE TO THAT PERSON IN LAW OR EQUITY
15 AND DOES NOT LIMIT THE RECOVERY THAT MAY BE OBTAINED IN THAT ACTION."

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4 -END-



FREE CONFERENCE COMMITTEE

on House Bill 543
Report No. 1, April 7, 1995

Page 1 of 2

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 543** and recommend the following amendments:

1. Page 1, line 26.

Following: "the"

Insert: "judge shall require a"

Strike: "must" through "law"

Insert: "to be filed by the applicant"

2. Page 1, line 27.

Strike: "bond"

Insert: "written undertaking"

3. Page 1, line 29.

Strike: "NOT EXCEEDING \$50,000"

Insert: "that includes all of the wages, salaries, and benefits of the employees of the party enjoined or restrained during the anticipated time that the injunction or restraining order will be in effect"

Following: " _ "

Insert: "The amount of the written undertaking may not exceed \$50,000 unless the interests of justice require."

Strike: "bond"

Insert: "written undertaking"

4. Page 2, line 4.

Strike: "5"

Insert: "30"

We recommend that the amendments considered above to House Bill 543 be acceded to by the Senate.

And this FREE Conference Committee report be adopted.

ADOPT

REJECT

HB 543
FCCR#1

801605CC.Hbk

For the House:

Tash

Bill Tash

Chair

Wagner

Doug Wagner

Pavlovich

Bob Pavlovich

For the Senate:

Holden

Joe Holden

Chair

Estrada

Van Valkenburg

Van Valkenburg

Ric Holden
Chairman

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