

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2/66

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2166

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2166**

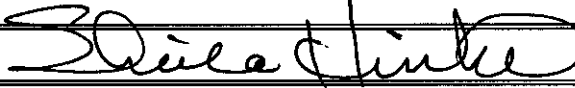
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 23, 2007**

Recorder Job Number: **1637**

Committee Clerk Signature



Minutes:

Senator Ray Holmberg - In Favor

Covered the bill on wages and salaries at the State Mill and elevator. Unionized employees work overtime with a decent percentage from overtime. An individual can earn \$50,000 in the last year with only \$32,000 being the actual salary. Currently overtime does not count toward retirement. Overtime is counted as salary and wages and would have to pay ½ the cost of retirement. 4.12% employer 4% employees.

S Potter: Are employees paying ½ the cost option or in an agreement?

S Holmberg – we ask them.

Chad Boushee – Mechanic at ND State Mill - In Favor

TESTIMONY #1 Covered testimony

S Potter: Did you hear the question?

C Boushee: There are no other clauses in there that changes.

S Potter: this would be a mandatory assessment from the employees then?

C Boushee: yes, it would be a good deal.

S Heitkamp: When I had employees, they were paid retirement on the overtime.

C Boushee: Set up is now based on 40 hours of work. [9:26m examples & explains]

David Kemnitz – NDAFLCIO – In Favor

Agrees it would help the grain mills.

S Potter: I'm concerned how much these employees work and why?

D Kemnitz: Their income is not as high as other industries and they need the money. They like what they do and like where they live. They become dependent on the pay.

S Behm: It is a strenuous job at the mill, they put in a lot of hours

John Risky – State Mill and Mayor

Would it hurt to do it. Working overtime is part of their job, they are hard working.

OPPOSITION

Vance Taylor – Pres. & General Mgr. of ND Mill & Elevator - Opposition

TESTIMONY #2 Read testimony

Exhibit A – Ammendments [18:02m] Suggestions

S Hacker: Do you know about the medium income for employees?

V Taylor: \$40,000 - \$50,000

S Hacker: Mention across the country, what are the other states?

V Taylor: 80 in plants, 30 plants across the country, con agra plants, Cargil, [refer to page 3 on testimony]

S Klein: What is the turnover like?

V Taylor: Better since last negotiations. Increased hiring rate from \$9.50 to \$11.00. We go through a few people. Once they get over a year, they stay.

S Andrist: As a small businessman, paying overtime over long periods of time is costly.

V Taylor: I've worked in 12 different flour mills and this is typical. 24 hours a week, 7 days a week open, driven by the competition It is a nature of the business. Some departments have lots of overtime, some have less. Milling will have the most.

S Andrist: All of these hours, should level off. Is this ever going to change?

V Taylor: 2 shifts, they shift overtime and have tried different situations. Employees prefer to work overtime for extra income. Some plants have 4 shift operations, but not at the ND M&E.

S Hacker: How is the mill doing lately?

V Taylor: Mill is doing well. Its been decent, tied to the grain crop. '99/2000 there was a renovation and expansion project, brought the yield up. Success by the efforts of the employees.

S Hacker: What is the number on profitability? Last 3 years in a row, \$500,000 a year.

S Heitkamp: Good times at the mill. You've shown a profit as president. Are you paid on your complete employment package, i.e. if you make X amount a year, is that what's taken into consideration with you retirement?

V Taylor: Yes it is

S Behm: Why don't you hire a few more employees?

V Taylor: The mill works 24 hours, 7 days a week. There are only a certain # of jobs. This happens mostly on weekends, we couldn't retain employees. Recently added a new shift on boat loading operations.

S Behm: Have the wage and hour people been on your back?

V Taylor: No

S Potter: What is the purpose of the state mill?

V Taylor: 1. Promote ag and industry by grinding wheat, increasing average selling prices
2. Make a profit and provide a portion to the state.

S Potter: Who told you you have to make a profit? Is there legislation?

V Taylor: In our mission statement, it is approved by Industrial Commission

S Behm: Need to be commended for the nice contribution.

NEUTRAL

Sparb Collins – Executive Director of the PERS

TESTIMONY # 3 Read the testimony and asked for some proposed amendments.

In appropriations, have to run the numbers.

S Klein: Can you give me an example of how much it will cost?

S Collins: Accounting want to have control.

S Potter: One amendment cuts out 6 more. Wouldn't that change the fiscal impact?

S Collins: Yes

S Klein: 2 options 1. spread the cost over all employees and 2. address the issue at the mill.

S Collins: {explains % 36:37m}

S Andrist: If this didn't include the amendment the way you suggest, all the other departments in the state would be subsidizing the SM & E workers? Does this exist anywhere else in the system?

S Collins: Off hand I don't know that it does exist.

S Andrist: So as far as you know, this would be setting up some kind of precedent?

S Collins: Just Mill and Elevator. May spread across others, it would make a difference.
Example of Law enforcement.

S Andrist: Generally, you try to make each unit self-supporting.

S Collins: there is averaging in everything.

S Hacker: In testimony for employee contributions, I thought the bill worked where the employees would be paying for half of that? Is it ½ or whole?

S Collins: 2 components. 1. Employee contribution, 4% and employer 4.12%. Limited to
2. w/overtime employees, they pay employee contributions.

[examples of average salary calculations 40:36m][explained increased liability] there would be a jump in funding. Atypical jump.

S Behm: This is kind of a unique situation, I don't think anyone else does this, that amount.

S Collins: Your guess is as good as mine. We don't get any reports.

S Klein: In earlier comments, it was said we "take better care of our retired workers" if this mill V.S. other mills in the industry.

S Andrist: Don't you think anyone has a high

S Collins: I don't have that information.

S Klein: Comments: doesn't this take better care of employees?

S Collins: We compare state groups, we don't break it down.

S Hacker: What is the total liability of the plan? You said going up 1.9 million.

S Collins: That is in the actuarial report. Page 2..

[find that page 2 is missing]

S Heitkamp: Aren't you going to have to hold this until he can get this into prospective with what the amendments will do?

CLOSED MEETING

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2166 B**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 29, 2007**

Recorder Job Number: **2178**

Committee Clerk Signature



Minutes:

S Klein: Tell us what is a good idea again.

S Hacker: The way that the mill operates is why this is a good idea. The typical worker works 20 hours overtime. 10 hours a week or so, 20 hours for every 2 week pay period and only getting credited for a fraction of the time they work. If it's the Mills' policy that they want to pay time and $\frac{1}{2}$, they can go ahead and do that. Obviously the Mill looks at their employees and knows they're paying them under market because they're willing to pay them time and $\frac{1}{2}$ for extra hours per week. So what's the big deal about paying for $\frac{1}{2}$ of their overtime? $\frac{1}{2}$ of the retirement portion of the overtime when the employee is paying $\frac{1}{2}$ as well. The Mill has been doing phenomenal since it's renovation and become a profit center for the state, I think we owe it to the employees that put in the hours per week. They need the ability to retain some of that.

S Klein: Some of these workers look forward to work overtime. They make \$30,000 with overtime.

S Potter: Sparb requested an technical amendment.

S Hacker: I don't think you can force anyone to work overtime. Once they're there, it's just a step up.

S Behm: Why pay some much overtime? Aren't their employees working too many hours?

S Klein: They said, after first year they have no turnovers, so obviously they must be doing something right for them. As low as unemployment is in ND, there are other places to go these days. Why be beat up with those hours if you don't to.

S Potter: Replace on Page 4, sum of \$8000 being appropriated for public employee system.- should be replaced with \$38,000

S Klein: For information only to reflect the cost of changing it.

Motion to move Sparb Amendments by S Hacker

Second by S Potter

Vote Passed 6 – 0 1 absent

S Klein: This is to help them get up to speed. Technical amendments they're looking for to cover their costs, to make sure it operates smoothly.

S Hacker: If \$200,000 is that significant to the Mill, they why don't they find 2 employees in the next year and start reducing everybody else's overtime, that would solve the Mills' expense.

Motion to move SB 2166 As Ammended by S Hacker

Second by Heitkamp

Vote Passed 4 -2 1 absent

Carrier - Hacker

January 29, 2007

JF
1-30-07
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2166

Page 1, line 1, replace the second "subsection" with "subsections 2 and"

Page 1, line 2, after the first comma insert "section 54-52-06,"

Page 1, line 5, remove "and" and after "appropriation" insert "; and to provide an effective date"

Page 2, after line 28, insert:

"SECTION 3. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan. ~~Each~~ Except for the North Dakota mill and elevator association, which shall contribute an amount equal to seven and eighteen-hundredths percent of the monthly salary or wage of a participating member, each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness."

Page 3, line 15, replace "Subsection" with "Subsections 2 and"

Page 3, line 16, replace "is" with "are"

Page 3, after line 16, insert:

2082
"2. ~~The~~ Except for the North Dakota mill and elevator association, which shall contribute an amount equal to seven and eighteen-hundredths of the monthly salary or wage of a participating member, each employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due."

Page 4, line 11, replace "\$8,000" with "\$38,000"

Page 4, after line 18, insert:

"SECTION 7. EFFECTIVE DATE. This Act becomes effective on January 1, 2008."

Renumber accordingly

Date: 1-29-07

Roll Call Vote: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2166

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DPAA ReReferred

Motion Made By Hacker Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein		✓	Senator Arthur Behm	✓	
Vice Chair Nicholas Hacker	✓		Senator Joel Heitkamp	✓	
Senator John Andrist	NP		Senator Tracy Potter	✓	
Senator Terry Wanzek		✓			

Total Yes 4 No 2

Absent 1

Floor Assignment Hacker

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2166: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2166 was placed on the Sixth order on the calendar.

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Page 4, line 11, replace "\$8,000" with "\$38,000"

Page 4, after line 18, insert:

"SECTION 7. EFFECTIVE DATE. This Act becomes effective on January 1, 2008."

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2166

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2166

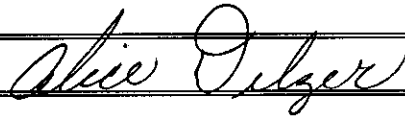
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-07-07

Recorder Job Number: 3036

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2166 on February 7, 2007 relating to definition of wages and salaries, employer contribution for employees of the ND Mill and Elevator Association under PERS. He turned the meeting over **Vice Chairman Bowman** as he gave testimony in support of the bill.

Senator Holmberg explained the Engrossed Bill. He gave the general flavor of the bill. This bill has to do with people who work at ND State Mill and Elevator. He talked about the base salary and overtime they work. There is a structured overtime system. What this bill would allow the workers to pay into the retirement system for those overtime hours therefore allowing those hours to count on their retirement. Of course it makes a goodly difference for those folks whose career is there and their living salary is here and all of a sudden their retirement is computed based upon a somewhat lower number. The bill as it has come in the past would just ask the State Mill to pay back. These are unionized workers. They came forward with the bill that is different, and that is that they would pay the 4.1% of their overtime salary into the retirement system to help partially pay. That is essentially the bill. The appropriation has to do with the State Mill itself, it's share, and you can see that from the amendment. I am going to ask Senator Hacker who carried the bill on the floor for the amendments.

Senator Tallackson I think the original bill a few years ago is that they wanted to get credit for the bonus on their salaries. Is the bonus included.

Senator Holmberg stated that the bonus would not be included. This is just earned overtime. In the interest of full disclosure the Employee Benefits Committee, the Retirement Committee, met on Friday and was not favorable inclined towards the bill. They gave it a unfavorable recommendation. That doesn't mean as the policy making branch, however, cannot overrule them, a committee of which I am a member. After testimony, Senator Holmberg resumed chairing this committee.

Senator Nicholas P. Hacker, District 42, Grand Forks gave oral testimony in support of SB 2166 and presented written testimony (1) The Employee Benefits Programs Committee Report. The Committee Report recommended an Unfavorable recommendation.

Chad Boushee, Employee at State Mill and Elevator presented written testimony (2) and oral testimony in support of SB 2166.

Senator Kilzer had questions regarding overtime and working holidays.

Senator Krebsbach asked if the employees were willing to pay a portion of this, what would be the difference and adjustment in the 401 K program, which is voluntary contribution for the retirement program.

Senator Bowman had questions regarding the average salary paid at the State Mill.

Your base salary plus benefits is what?

Chairman Holmberg stated we have that information here.

Senator Tallackson stated he toured the mill last fall and found out with the additions made at the mill, we are the largest mill in the US. It is quite an achievement.

John Risky, President of Bakery, Confectionary, Tobacco Workers and Grain Miller's Local Union 167G gave testimony in support of SB 2166.

Senator Mathern asked how do we handle these kind of issues in other businesses. He also asked if this is negotiated in the labor contract.

Ed Barchenger, Controller/Financial Manager of the North Dakota Mill and Elevator Association appearing today on behalf of Vance Taylor, President and General Manager of the State Mill presented written testimony (3) and gave oral testimony in opposition to SB 2166.

Senator Robinson had questions regarding overtime issues and other state employees, if there are requests from employees to do overtime, the position of management regarding the salaries of workers, the ability to retain and recruit new employees, and the fact that we need to be competitive. The work force is everything there. We produce some of the finest products in the nation.

Senator Lindaas asked about comparison with other agencies, addressed the overtime issue and if it would be better to hire more FTE's.

Chairman Holmberg stated he had a copy of the recommendation or the commentary from the Employee Benefits Committee handed out to the committee, and I do have to thank, I know there are people that are here that stayed, and I had to leave and had to miss that portion of the meeting so I can tell you that if I had been there the vote would have been six to one instead of six to nothing. But that was their recommendation. Are there any other questions on SB 2166?

The hearing on SB 2166 was closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2166

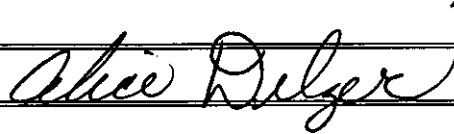
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-08-07

Recorder Job Number: 3228

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2166 on February 8, 2007 regarding the the Overtime Work at the State Mill and Elevator.

Discussion followed about the concerns of overtime and how the employees are expected to do overtime, questions concerning management of the mill, the Union involvement, the fact that these employees do not come under the State package for benefits, Profit Sharing, the Retirement program, the remodeling of the mill. After much discussion Chairman Holmberg asked if there was a motion for a do pass.

Senator Robinson moved a DO PASS, Senator Seymour seconded. There was further discussion. **A roll call vote was taken resulting in 8 yeas, 5 nays, and 1 absent. The motion carried. Senator Hacker will carry the bill.**

The hearing on SB 2166 closed.

Date: 2/8/07
 Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2166

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass ~~amend~~

Motion Made By Robinson Seconded By Seymour

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann		✓	Senator Larry J. Robinson	✓	
Senator Tom Fischer		✓	Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		
Senator Karen K. Krebsbach		✓			
Senator Rich Wardner	✓				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Sen Hacker: JBL

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 9, 2007 7:45 a.m.

Module No: SR-28-2635
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2166, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2166 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2166

Chairman Klein and Senators

same given to Senate appropriators

My name is Chad Boushee and I am a mechanic at the North Dakota State Mill. I am here to testify in favor of Senate Bill 2166, on behalf of myself and the employees of the North Dakota Mill. Thank you for this opportunity.

The current retirement only accounts for 40 hours worked per week, Senate Bill 2166 would allow overtime to be counted towards retirement. Overtime at the State Mill is a fact of life, it is not voluntary, and it is a condition of employment. In previous years, management at the Mill has stated they will try to cut overtime, but in reality it is not cost effective to do so. Since the last Legislative Session we have negotiated a 4-year contract with the mill at that time management had a chance to resolve the overtime issue and chose not too. A few changes were made to shift overtime from one employee to another, but the fact is the average annual income is still 30- 40% overtime. In some cases over 50% of an employees annual income is overtime. As I stated earlier, I am a mechanic at the State Mill. I work in one of the departments, which requires the least amount of overtime, But over the past three years 25% of my annual income has come from overtime.

Attached is an example of the hours worked from an employee in the milling department for the past three years and the income he received. Please keep in mind he has done this for 27 years.

For years the mill has represented the State of North Dakota very well. In recent years the State Mill has been profitable and set production records on a regular basis thanks to hard working employees who take pride in their jobs. All we ask in return is a fair deal. Senate Bill 2166 is written so employees pay the first half of this extra retirement and that the State Mill match that amount. If it is profitable for the Mill to operate with this much overtime, then it should reflect the same on an employee's retirement. The employees of the Mill understand that this bill separates the State Mill from other state agencies in regards to calculating retirement, but please keep in mind having a state owned flour mill is a unique situation which requires legislation like this. So I ask you to give Senate Bill 2166 a chance and a recommendation to pass.

Thank you. I will gladly answer any questions you may have.

#1
2166

Actual Employee from Milling Department

Two week pay periods (80hrs)	2004 <u>Hours worked</u>	2005 <u>Hours worked</u>	2006 <u>hours worker</u>
1	132	104	134
2	132	116	132
3	101	109	89.25
4	104.25	118	114
5	124	120.75	120
6	112	124	109
7	118	104	116
8	103	116	112
9	112	124	104.25
10	112	120	136
11	152	120.5	116
12	122	109.25	100
13	128.25	108	96.5
14	96	108	112
15	132	124	108
16	136	101	108
17	153	116	116
18	124	128	100
19	96	112	120
20	126	120	116.25
21	124.5	148	124
22	118	129	129.75
23	105	104	136
24	108	128	112.75
25	120	136	112
26	<u>132.25</u>	<u>136</u>	<u>100</u>
Total hours worked	3123.25	3083.5	2973.75
40 hr work week	2080	2080	2080
40hr/wk Salary	\$29,390.40	\$30,274.40	\$31,335.20
Actual Salary earned	\$60,607.52	\$61,607.80	\$62,331.31

