

COMMITTEE ON EDUCATION - HEARING - 56TH SESSION  
MARCH 17TH, 1971

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MEMBERS PRESENT: Swallow, Wilson, Hawkins, White, Foote, Smalley

ABSENT: Frazzini

GUESTS: Sub Committee of the Judiciary, Zel Lowman, Margie Foote  
Bob Maples, Washoe County School District  
Assemblyman Bryan  
Mr. Petroni, Attorney, Clark County Schools  
Richard Morgan, Executive Director NECA

Chairman Swallow convened the meeting at 7:10 P.M. for the purpose of joint discussion with the Judiciary Sub Committee both AB 609 and AB 571, both bills relating to employment and dismissal of teachers.

Mr. Lowman explained that the Judiciary Committee had appointed a Sub Committee for Education consisting of himself, Miss Foote and Mr. Dreyer.

Chairman said that they would have Assemblyman Bryan, the introducer of AB 609 speak first.

Assemblyman Bryan said that he didn't claim any pride of authorship here as he thought both bills were introduced in recognition of the fact that the present law was inadequate. He said he would like to state that he did not represent anybody at the present time on any matter, or any school district in the State of Nevada, but he wished to say that he had some experience in dealing with the act as presently written as he had had some experience in appearing before the Board as it is presently constituted and Mr. Petroni was even more experienced as he had dealt with it several times. Regardless of how you stand on the question, he said, he felt that some adjustment should be made. The panel that is referred to under the present act which is 395, the panel that is referred to there is a provision for a challenge on the part of both parties, a panel with some 42 names he recalled. The individual panel designed to handle the individual case before the school district, however, has no peremptory challenge. He explained that peremptory challenge simply means that you have a right to challenge anyone sitting on that panel because you simply do not like the way he or she parts their hair or you just simply don't care for them and that he thought in the interest of parents peremptory challenge should come after the panel is appointed to hear that case. It is just as important for the school district as for the individual teacher coming before that panel he stated. For example there may be some person on that panel, once the panel is appointed to hear that case, there may be someone on that panel who in the judgement of the counsel for the school district who are highly biased in favor or the employee or through inadvertance someone who is related to the employee and you can conjure up any number of hypothetical instances. Whatever the committee decided, he said, they should take this into consideration. People should be on this panel who have no personal involvement he added. The most important thing he had added was to take the school trustees out of this process. He said that these people simply do not have the time to serve. He said that he felt the original review panel should have the power to make the decision favorable to both parties.

Mr. Bryan went on to see that we must have workable procedures. As it is now it is an extremely involved and time consuming procedure. He said he would be happy to answer any questions at any time in regards to this.

Chairman asked if there were any questions anyone would like to ask.

Mr. Smalley asked if they conducted these hearings privately or were they open to the general public.

Mr. Bryan wasn't sure but Mr. Petroni said that under the present act the hearing is private unless the teacher requests otherwise.

Mr. Bryan said that the review panel, whoever or whatever was decided on must make decisions. Mr. Petroni, he said, had cases where they told him, yes, we know so and so is guilty or he did this but they made no recommendation as to what to do. They must make recommendations, he said. That he must be fired, rehired or offered a contract for the following year.

Mr. Lowman asked what was going to be the option to the school board as he didn't see it explained anywhere.

Bryan answered the panel was the initial authority. Whatever decision they reached could be appealed to the court.

Mr. Petroni said it was on page 3, line 38.

Mr. Lowman said then as it is presently constituted that appeal would go to the Board, is that correct?

Mr. Petroni came to the front and said he would support both of these bills. He said that presently the statute to dismiss or terminate an employ is found in Act 391.3197 and was enacted four years ago. Basically, the statute is alright. The problems I came across with 571 are these: Mr. Mc Donald and I went over some of these and I am going to present them to you. I have changed some of the wording here so that it makes more sense. First of all, in Section 2 this takes care of the problem Mr. Bryan had about the school trustees.

In Section 3 we talk of the superintendent or teacher may appeal to the board, he said let's change that to "request the board" to "review the recommendation of the panel." Sub section 2 change "appeal" to "review" and "refer" to "rerefer".

Miss Hawkins asked how you separate the Superintendent from the Board.

Sub

In Section 4 strike out line 19 all words up to in.

Mr. Petroni said that a court cannot, however, overthrow the decision of a board simply because they do not agree with or like their decision. It has to be on legal grounds only.

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I have given the Board three alternatives.

- (1) They can follow the decision of the panel which they do nine times out of ten.
- (2) They can send it back for more recommendation and clarification.
- (3) or they can hear the whole thing from scratch.

In Section 4 he said they had a problem there and his suggestion was to delete "pursuant to NRS 388.170" and substituted "employed for adult education."

He said that some states feel that probationary teacher should have some protection.

Miss Foote said that when the professional practices act was passed they were told it was a bill where the teachers could clean up their own house.

Mr. Morgan has language to add on page three at the end of line 11, Mr. Petroni said. It would be "However, prior to formalization by the board the probationary teacher shall be given the reasons for recommendations to dismiss and given opportunity to reply."

391.316 states (1) there is hereby created a perpetual review committee which shall consist of 42 persons of recognized scholarship and professional standing who have been actively engaged in teaching related to administrative or supervisory services in the public schools of this state for the five years preceding their appointment. The members of the Committee shall be appointed by the Superintendent of Public Instruction and approved by the State Board of Education (2) A majority of the Board shall consist of teachers not occupying the position of an administrator. The total committee shall be broadly representative of the teaching profession including administrators." Now this is what Mr. Bryan was pointing out is that the teacher or the superintendent should be able to knock any three off for any reason. I have no objection to that.

Smalley asked how many were going to be on this panel that does the hearing?

Three, he was told.

Someone else said five. Miss Hawkins said this would be 42 throughout the state.

Mr. Petroni said go back to page 2 line 22. He said that this only lasts for ten days. He said that they had teachers that had serious charges, one an open murder charge, one manslaughter, one who was arrested in the city of Las Vegas for soliciting a vice squad officer in a men's restroom. Now these had been arrested but they hadn't been convicted for anything. The statute the school superintendent to recommend dismissal for conviction for a crime involving moral turpitude. This one was arrested for vagrancy and it is not a felony. So in the ten days these people haven't even come up for a hearing of pleading guilty or not guilty and we have to put them back to work and then the parents start telephoning about Johnny's teacher.

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So all he was asking for in line 22, page 2 of 571, you should also add in there or 393.314 because that is the ten day suspension. This gets them out of the classroom until the situation has been handled. Now Mr. Morgan wanted added in there at the end of line 26 "if not convicted shall be fully reinstated without loss of pay and seniority."

This again takes the heat off the board.

If convicted you have to dismiss him was the answer to Mr. Lowman's is there any other recourse.

Miss Hawkins said that what bothered here was this statement "has been charged". Now by whom has been charged. That means by legal authority - that would be the interpretation the court would give to it Mr. Petroni said. It was decided after discussion that for purposes of clarification the proper wordage should be inserted there.

Mr. Robert Maples, Washoe County School District, spoke and said that they preferred AB 571. They felt it was a good bill and they opposed AB 609.

Chairman Swallow thanked Mr. Maples for his comments.

Mr. Morgan said that if they can agree on the amendments to AB 571 as Mr. Bryan raised some very good points and he should withdraw AB 609, with the addition of lines 3 through 10 inserted into Section 2 of the 1st page. What is making this possible is our ability to sit down locally and spell these problems out.

Mr. Lowman said at this point it was entirely what they wanted if they wanted to amend AB 571 he would get it out of Judiciary and refer it to Education

Chairman said we already have one bill which could be amended.

Some thought it would be easier to write a new bill.

Mr. Bryan said his bill was dead and he was withdrawing it.

Mr. Swallow said if this was the opinion of the committee -----  
My thoughts if I might express them gentlemen is that as many of the names of the introducers should be left on as possible.

Miss Foote said you can't do that.

Meeting adjourned at 8:45 P.M.