

LABOR AND MANAGEMENT COMMITTEE - 56TH ASSEMBLY SESSION

Minutes of Meeting - March 16, 1971

PRESENT: Chairman, D. Poggione, R. Capurro, H. McKissick, D. Branch, R. Bryan, D. Mello and T. Hafen.

GUESTS: Stan Jones, Nevada State Labor Commission; Stan Warren, Nevada Bell; M. A. Fletcher, Employment Security Dept. of Nevada; William R. Gibbens, the Gibbens Co., Inc., President; Peter Breen, Legal Counsel, Dept. of Employment Security and Lou Paley, Executive-Secretary, AFL-CIO. Assemblymen Keith Ashworth and Art Valentine.

The meeting was called to order by Chairman, Dan Poggione at 7:10 a.m. in Room 320, to hear testimony and discuss the following bills.

A.B. 121

PERMITS LABOR COMMISSION TO MAINTAIN ACTIONS TO COLLECT COMMISSIONS. A.B.121

Stan Jones spoke for the bill, saying that, at the present time, there are many employees in the State that are working on a commission basis only. Under present labor - industry laws, the labor commission cannot accept or act on these claims. His department said these people, working on a commission basis, should have the same protection that those who labor for an hourly rate. Although it would increase the administrative responsibility of his department, he said they were prepared to assume this responsibility.

Upon questioning, Mr. Jones could not say the number of claims that they would handle, since they had not handled them in the past. However, the trend seemed to indicate an increasing number of people working for commissions only. The highest number were employed in the salesmen category.

Mr. Jones also stated that, at the present time, it would not necessitate an increase in staff or salaries, if these claims were handled.

Upon questioning by Mr. Paley, Mr. Jones said it would be the claimant's responsibility to prove that a commission was due; such as previous payments, a contract or agreement (written or oral). Of course, the same evidence has to be presented by a wage earner, before his claim is considered.

The conflict between what would be considered a commission and possibility of confusion with bonuses paid by employers was then discussed. Mr. Poggione stated that a commission is actually earned and due whereas a bonus is up to the discretion of the management. Mr. Jones said his department considers commissions as something in addition to or in lieu of wages.

Mr. Capurro felt that the bill needed some definition of the word "Commissions". Mr. Valentine, introducer of this measure, was asked about this and agreed to come up with an amendment for the bill - what the word "Commission" would and would not include. Mr. Capurro also said he would follow up on some type of amendment for this measure.

A.B. 386A.B. 386

Clarifies unemployment compensation provisions relating to notice to Employer.

Mr. William Gibbens presented testimony for this bill. His company represents large employers in unemployment compensation matters, primarily some of the large casinos in the Las Vegas area. There were two primary facets of the bill his firm was interested in.

One of these problems was when an employee quits one employer, without good cause, that employer is potentially liable for charges against his unemployment account. If this same employee, goes to work for some other employer and is eventually laid off, the first employer would be charged the benefits due in his base period.

From the employers' standpoint, the ten day protest period should be extended to fifteen days. This was mainly due to the mailing problem, especially between the northern and southern part of the state. These changes are recommended and covered in Section 4 and 6 of the bill. This change would in no way affect the employee's eligibility for unemployment but would give the employer an opportunity to protest the claim against his firm.

Mr. Gibbens then referred to the additional wording "or its authorized agent", contained throughout the bill. This would make the Nevada Law conform to laws in other states. As agents, their firms have the Power of Attorney to complete various unemployment forms for the employers.

Mr. Gibbens was then questioned by the committee, regarding eligibility of employees, liability of employers and payment of unemployment claims. Mr. Gibbens did inform the members that unemployment, not charged to a former employer, would then come out of the General Fund. Of course, if the General Fund drops down considerably, the rate would go up overall, which would, in turn, affect all employers.

Mr. M. A. Fletcher then spoke against the bill. He called the committee's attention to several discrepancies in the measure as far as conflict with the law as it now reads. He referred to Section 612.460, which should be tied in with the proposed changes. He also said that Section 612.550 would have to be amended to conform with proposed changes.

Speaking of the authorized representatives of larger companies, Mr. Fletcher said they did not believe responsibility should be delegated to outside corporations or agents, even if they had the Power of Attorney.

He also stated that the department felt that the ten days is more than ample and that other states allow less time. These notices or appeals can be turned in at any department office in the state and be considered timely. He referred to a Case in California - Javits Case - in which it was held unlawful for the State to withhold payments to the claimant without giving the claimant a hearing. The Nevada Department is trying to speed up the appeal process now so that this will not happen. He concluded that the language in Section 6 is so confusing that it would be extremely difficult to administer.

Questions by the committee followed. Mr. Capurro felt, that with the numerous laws now, the larger companies should secure the services of these special organizations that handle things such as Unemployment Cases, and forms. If given the Power of Attorney, by an employer, then this special agency should be able to act for them, especially when they are knowledgeable about the laws.

Mr. Fletcher explained that the only requirements of his Department was that the former employer would receive the first notice on a claim; and secondly, the employer must evidence his responsibility for the actions of an agency by signing their statements and reports.

Mr. Lou Paley voiced his objection to the bill. During the off-season of Legislative work, a special Labor and Management Committee, appointed by the Governor, discussed possible legislation along these lines that both labor and management could live with. This particular bill was one that was rejected by this committee. He also mentioned that these companies from other states, that are serving as agents in this state, should be licensed in the State of Nevada.

Mr. Breen, legal advisor for the Dept. of Employment Security, spoke briefly against the bill. His main concern was with the responsibility of the "authorized agents" from the legal standpoint. He felt the committee should be aware of possible court proceedings wherein perhaps the "agent" would not be held responsible for the commission of a crime in certain appeals or judicial matters.

Both Mr. Breen and Mr. Fletcher did feel that the bill could be cleaned up to make it workable from the department's standpoint, however would not say that the Department would be favorable to it. Mr. Poggione remarked that he believed that Section 6 had a great deal of merit, since he did not think it was fair to charge an employer's account for some employee's unemployment benefits when the employee had left a company without just cause.

Mr. Keith Ashworth, Assemblyman, spoke briefly in favor of the passage of this bill. He also mentioned the time lag and believed the additional five days were necessary. He also said that large employers paid these agents very well to represent them and should be entitled to all the services available.

Further discussion followed on possible amendments to the bill. Mr. Capurro will obtain these amendments and circulate them to all committee members. Motion was made by R. Bryan, seconded by R. Capurro, that this bill receive a "Do Pass", as amended. Motion carried with Mr. Branch dissenting.

A.B. 353

Prohibits employers from taking Employees' Tips.

A.B.353

Further discussion on this bill followed by committee members. References to Federal Minimum Wage Law was made by Mr. Bryan. Mr. McKissick will have the amendment, as proposed and agreed upon at the meeting of March 9th, ready for consideration at the next regular meeting.

A.B. 117 Disqualifies a person who voluntarily retires from receiving unemployment A.B.117
compensation.

Mr. Poggione reported that he had the amendment ready and was being re-drafted. In essence, the amendment will say that a person who retires voluntarily will not be able to draw unemployment from the firm or employer from which he has just retired.

A.B. 474 Provides union label need not be affixed to public printing produced in A.B.474
commercial printing shop.

Motion was made by R. Bryan that this bill be indefinitely postponed. Seconded by Mr. Branch. The vote was 3-3, so this measure will come up at the next meeting. (Mr. Hafen had left the meeting early to attend a Taxation Committee meeting)

A.B. 517 Permits 4-day Work Week for female employees. A.B.517

Motion was made by Mr. Branch, seconded by Mr. Capurro, that this be indefinitely postponed. Motion carried.

Meeting adjourned at 9:10 a.m.

ASSEMBLY

AGENDA FOR COMMITTEE ON LABOR AND MANAGEMENT

Date March 16, 1971 Time 7:00 AM Room 320

Bills or Resolutions
to be considered

Subject

Counsel
requested*

A.B. 121

Permits Labor Commissioner to
Maintain Actions to Collect Commissions.

A.B. 386

Clarifies Unemployment Compensation
Provisions Relating to Notice to Employer

*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date _____ Time _____ Room _____
Subject _____

Date _____ Time _____ Room _____
Subject _____

ASSEMBLY

AGENDA FOR COMMITTEE ON LABOR AND MANAGEMENT

Date MARCH 17, 1971 Time 5:00 P.M. Room 320

Bills or Resolutions
to be considered

Subject

Counsel
requested*

A.B. 474

Provides Union Label need not be affixed
to public printing produced in Commercial
Printing Shop.

A.B. 553

Prohibits Labor Organizations from Representing
Employees or acting as Collective Bargaining
agents without local in State; Provides
Sanctions and penalties.

A.B. 618

Clarifies rights of Handicapped Persons

S.B. 458

Adjusts Weekly Unemployment Compensation
Benefit Amounts.

*Intervention
Cancelled*

*Please do not ask for counsel unless necessary.

HEARINGS PENDING

Date _____ Time _____ Room _____
Subject _____

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Subject _____