

Assembly

LABOR AND MANAGEMENT COMMITTEE MINUTES

MARCH 1, 1973

MEMBERS PRESENT: Chairman Banner
Mrs. Brookman
Mr. Barengo
Mr. Bickerstaff
Mr. Ullom
Mr. McNeel

MEMBERS ABSENT: Mr. Capurro

GUESTS: Bill Adams, City of Las Vegas
Carl A. Soderblom, Nevada R.R. Association
Bob McAdam, Nevada Bell
Stan Warren, Nevada Bell
Stan Jones, Nevada State Labor Commissioner
Rowland Oakes, Associated General Contractors
Paul Gemmill, Nevada Mining Association
Wendell Harnish, Southern Pacific Transportation Co.
Robert Quinn, Nevada Motor Transport Association and
Nevada Franchised Auto Dealers, Inc.
Bob Kerns, Peace Officers and Firefighters

The meeting was called to order by Chairman Banner at 4:15 on March 1, 1973. The minutes of the last meeting were approved. Chairman Banner asked the committee what their feelings were on SB 157. Mrs. Brookman moved the committee "Do Pass as Amended" and Mr. McNeel seconded the motion. There were no objections. Chairman Banner then introduced Stan Jones, Labor Commissioner for the State of Nevada, who was to explain the following bills: AB 245, 246, 247, 349, and 350. Mr. Jones began with AB 245, which clarifies procedure in making deductions from employee's wages. Mr. Jones explained that he was appearing before this committee as an advocate of approximately 290,000 Nevadans who earn their endeavors by their labor. At the present time there are many places of employment that unilaterally make illegal deductions from their employees wages without the employees permission. In some cases it may be the entire salary. The employer may claim that is in payment for breakage that the employee is responsible for or money shortage in which case he may amortize among a group of employees, etc. They feel that the employee should authorize how much should be taken out of his salary, particularly in the service industry, which is what this particular bill would do.

Chairman Banner asked, for the record, if this bill would make it mandatory that the employer deduct anything that the employee requested him to deduct.

Mr. Jones stated that it would not. The employer is not required to make every deduction requested by the employee, but the employee

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would have to authorize every deduction the employer made.

Mr. Oakes, Associated General Contractors, asked what this would do the union dues or to vacation funds that may vary in amount from time to time. Would the employer have to have written authorization everytime the amount charged changed.

Mr. Jones replied that it would not be necessary because this would come about through a collective bargaining agreement and the amount was conceived of the employee organization and the employee's approval is given as a member of the organization as having approved it. Mr. Oakes felt that this should be put into the bill. Mr. Ullom pointed out that in the first part of the section it states that this chapter does not preclude the withholding of wages or compensation of any employee and then he read the list which included employee organization dues.

Mr. Gemmill of the Nevada Mining Association raised the question of situations that occur in the mining industry - of a person being out at a small mining property and a small boarding house has been contracted for board and room and the employee signs up for it. If the amount of board and room varies from time to time and it sometimes does, does this man have to resign the authorization each time. Mr. Jones said that they would have to have written authorization and that he felt that this type of condition was part of the problem and that the employee should be made aware of changes in deductions before they are made.

Mr. Gemmill then asked about the store not run by the company but by somebody else and the employee has requested that the store bill be paid out his wages, would this require that the employee come back into the office to sign an authorization slip because this type of bill would vary from month to month. Mr. Jones said that he would have resign the slip. Mr. Gemmill said that he felt that this would mean that the company would not want to be taking such deductions out any more.

Mr. Oakes again asked if the committee felt that some language should be added to exempt deductions made as a result of collective bargaining unit raising dues without requiring new authorization from each employee effected.

Mr. Jones then spoke on AB 246 which allows the Labor Commission to identify kinds of employment dangerous to minors. Mr. Jones began by stating that this was a change of jurisdiction from the Board of Health and that the Labor Commission handles 99% of the conditions of employment of minors, inquiries from employer and minors with respect to their conditions of employment and have in the past met with the State Board of Health in regard to these changes and they had no objections to it. He felt that it properly should be vested with the Labor Commission, the office which deals with conditions of employment. Mr. Ullom asked if this would require

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more staff to handle the additional work. Mr. Jones said that it would not since they already handle 99% of the work and the additional 1% would not require that much more work. Mr. Jones stated that the kids were not the problem but some of the places employers would like employ them was. At the present time the Labor Commission prints the only abstract from NRS with respect to the law concerning the employment of minors.

Next to be discussed was AB 247 which amends the law relating to wages, hours and employment on public works. Mr. Jones stated that at the present time there are a number of highway contracts awarded where out of state contractors have come into Nevada, secure public work in which the Labor Commission has predetermined the prevailing wage and the contractor has selected the lowest classification that he can find and assigned all types of work to that classification of labor. There is no way that this can be effectively treated at this time under the present statutes. It makes the difference in some cases between a local contractor and an out of state contractor getting the job. Mr. Barengo felt that there was an unconstitutional delegation of authority to the AFL-CIO to determine jurisdictional classes. Mr. Jones said that he did not feel that they will be determining but the determination shall be the agreements of the crafts affiliated with the Nevada State AFL-CIO. Mr. Barengo said that what he was saying was that we cannot of the future, we can only adopt agreements up to today and that there should be a better way to do it. Mr. Oakes said that he felt Mr. Jones was asking for some authority that not even the US Labor Department has. He felt that the Labor Commission had presented no facts that would prove what he says is going on is actually going on. Mr. Oakes said that the only person who has the right to assign work is the employer and the only way to settle disputes is through the NLRB or the courts but what Mr. Jones is asking for is the power to settle jurisdictions which is the responsibility of the employer.

Mr. Quinn, Nevada Motor Transport Association, said that the problem that his group came up with was the fact that there has always been a big difference between construction labor and operating labor and a difference of what you can assign these people. He felt that this bill would permit the Labor Commissioner to step in there and assign construction wages under an operating situation.

Mr. Ullom asked Mr. Oakes if there was any difficulty with the first part of the bill (line 3-line 8). Mr. Oakes said that they approve any improvement of the language to help Mr. Jones get some action out of the DA.

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Mr. Jones said that this bill was a request of the Northern Nevada Building Construction Trades Council in connection with the Southern Council. He said that he could see nothing in the bill that he would be assigning jurisdiction but he see that a contractor would be required to pay a proper classification of hourly wage to a proper class of work. Mr. Barengo said that he did not feel that the language did what the Labor Commission would like it to.

AB 349, which gives labor commissioner full authority to conduct hearings under labor laws, was discussed next.

Mr. Jones stated that they had given this piece of legislation considerable investigation having discussed it with a number of counsels, with the AG and this is what they came up with. At the present time the Nevada State Labor Commission is sending cases to the already clogged courts that need not be referred to them for complete trial again, after the NSLC has provided an evidentiary hearing. This bill provides ample judicial appeal procedures for those that might feel that they were aggrieved. It lends additional authority to the NSLC and they feel that it might relieve the courts of some of their already burdensome load. Mr. Jones then introduced Mr. Julian Smith, Deputy AG, who has worked on this bill and would explain it more fully. Mr. Smith stated that the Labor Commission is conducting hearings at the present time but the authority given to them states that they can only examine witnesses. Labor Commissioner is constantly having defense persons stating that he can not conduct hearings only examine witnesses. Situation as it is now is that when the Labor Commissioner gets a wage claim and has a hearing and renders a decision, if that decision is not to the liking of the employer, the employer may do one of three things; appeal to the courts, adhere to the decision, or ignore it and just sit on his hands. There is no way that the Labor Commissioner can enforce his decision except take the employer to court for a whole new complete trial. They feel that this is ineffective method for enforcement and this bill would remove the double trial arrangement. It will let the Labor Commissioner have a hearing and develop a transcript. If the decision rendered is not agreeable to the employer and he ignores it the Labor Commissioner could petition the court for the court to judicially confirm his award. The court may either confirm, deny or return for additional testimony. If the person is still dissatisfied he can appeal just as in other cases. Mr. Smith stated that did feel that on page 1 line 22 the word "recorded" should be substituted for "transcribed".

Mr. Ullom asked if he understood it correct in that this bill says that if the employer does not agree with the findings he can appeal, but only the judgment or findings. The court that he appeals to does not hear the testimony only gets the transcript of the hearing. The employer is stuck with the findings and facts of the Commissioner.

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Mr. Smith said that this is the way it actually is now and that this bill is needed to allow the Labor Commissioner to also ask the court to review it. The Labor Commissioner has no authority under the Administrations Procedure Act to request review of his orders. What they want is to have only one evidentiary hearing and that on the Labor Commission level. The ultimate effect would be that if the Labor Commissioner is successful in obtaining judicial confirmation of his order then he can take that and use it as the judgement to collect the amount of the award.

Mr. Kerns, Firefighters and Peace Officers, said that he felt that it was a good bill but there was one thing that bothered them. It was paragraph 3 line 15 where the court can review only decision and record of hearing and line 26 where it has the force and effect of final judgment of district court. They feel that to have this same force and effect how can the court be limited to evidence and still have the judgment have what the bill says it has.

Mr. Smith stated that the court is able to return it for additional evidence. The court is acting as an appellate court same as district court reviewing justice court decisions and supreme court reviewing district court.

Mr. Barengo said that it would only have the effect and force of district court if the hearing and decision were confirmed by the court.

Mr. Oakes said that when the APA was passed it was contemplated that the prosecuting attorney would not also be the judge. In this case the Labor Commissioner is collecting the evidence, prosecuting the case and rendering the decision. He felt that if some kind of board or hearing officer could be set up that this would give a more impartial aspect to the whole thing.

Mr. Jones stated that the Labor Commissioner does not act as an investigator. The entire matter is taken care of at the hearing and there is no pre-investigation made.

Mr. Quinn said that he did not have any great quarrel with the bill and that he just wanted to inform the Committee that when the APA was developed the Bar Association came in with a very comprehensive draft that would have almost required an individual coming before any administrative board to have retained counsel. This was rejected and because APA hearings are not necessarily conducted with due regard to the rules of evidence the right to trial de novo was a necessary thing. At least in this State. He felt that if we ever get to the point that the rules of evidence applied in these hearings and the case could be developed along the lines that would be done in court then trial de novo might be of less interest, but personally felt that nothing should be done that would take away from the effected individual on either side the right to have the court review the whole case.

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AB 350, requiring employers to furnish wage information to employees regularly, was then discussed. Mr. Jones said that they had counseled with a good number of employers in Nevada and asked them what kind of information their employees were receiving and that information is what is contained in AB 350. It is the information being most widely provided by the largest number of employers. There are a number of employers that furnish no information to their employees so the employee has no defense for the number of hours he has worked and been payed for.

Mr. MCAdam representing Nevada Bell and speaking for communications and utilities groups throughout the State said that they had no opposition to the bill per se but would like to present an amendment to the bill. They have a mechanical problem within their industry in that they deal with 5 different unions, 4 major sections and they all work under slightly different conditions which confuses their computers as far as the programing of them. They comply with all other sections of the bill but would like to have the following amendment added after line 18 in Section 1:

- 5) This section shall not apply to utilities under the jurisdiction of the Nevada Public Services Commission.

Mr. Quinn then questioned whether this would apply to the small individual who may only have 1 or 2 employees. He felt this would involve an awful lot of paper work and would be a burden to the small employer.

Mr. Gemmill concurred with Mr. Quinn's statement and stated that in the mining industry the worker may only work 5 hours in the day but he is paid for an 8 hour day. He said that the small operators would have a terrific burden placed on them with the paper work that this would generate.

As there was no further testimony on any of these bills the Chairman thanked those present and stated that the committee would take a brief recess after which they would consider the bills before them.

AB 245 - Mr. Ullom felt that an amendment should be added so that collective bargaining dues adjustments would be allowed without new authorization be required. Chairman Banner appointed Mr. Ullom to get this amendment written up for the next meeting.

AB 246 - Mr. Ullom moved "Do Pass" and Mr. McNeel seconded it. There were no objections with Mr. Bickerstaff abstaining as he had not been present for the testimony.

AB 247 - Mr. Barengo stated that he would like to see about getting the language in this bill cleaned up. Mr. Banner assigned him the task of working on the bill and offering any amendments to make it more workable.

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AB 349 - Mr. Barengo asked if the Chairman would delay action on this bill so that he could look into it further as he was not really satisfied with it. Chairman Banner appointed Mr. Barengo to look into the legal aspects of the bill.

AB 350 - Mr. McNell moved "Do Pass as amended". Mr. Ullom 2nd the motion. It passed unanimously. Chairman Banner delegated Mr. Ullom to get the amendment printed and added to the bill.

Chairman Banner adjourned the meeting at 6:15.

Respectfully submitted,

Sandee Gagnier,
Assembly Attache

ASSEMBLY

AGENDA FOR COMMITTEE ON LABOR AND MANAGEMENT

Date March 1 Time 4:30 Room 320

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel requested*</u>
AB 245	Clarifies procedure in making deductions from employee's wages.	
AB 246	Authorizes Labor Commissioner to identify kinds of employment dangerous or injurious to minors.	
AB 247	Amends law relating to wages, hours, and employment on public works.	
AB 349	Gives labor commissioner full authority to conduct hearings under labor laws.	
AB 350	Requires employers to furnish wage information to employees regularly.	

*Please do not ask for counsel unless necessary.

LABOR AND MANAGEMENT COMMITTEE - 57TH SESSION

DATE: 3-1-73 BILL NO.: SB 157 SPONSOR: Committee on Commerce and Labor

SUBJECT: Provides clarification and housekeeping changes in Unemployment Compensation Law.

Committee Action

DATE: _____ AMENDED: YES NO Yes
AMENDMENT MADE BY: _____
SECONDED BY: _____

COMMITTEE VOTE

BANNER	<u>YES</u>	NO	BICKERSTAFF	<u>YES</u>	NO
BROOKMAN	<u>YES</u>	NO	CAPURRO <i>absent</i>	<u>YES</u>	NO
BARENGO <i>excused</i>	YES	NO	McNEEL	<u>YES</u>	NO
ULLOM <i>excused</i>	YES	NO			

Disposition

DATE: 3 DO PASS: _____ DO PASS AS AMENDED: XXXXX
INDEFINITELY POSTPONED: _____

LABOR AND MANAGEMENT COMMITTEE - 57TH SESSION

DATE: 3-1-73 BILL NO.: AB 246 SPONSOR: Banner

SUBJECT: Authorizes Labor Commissioner to identify kinds of
employment dangerous or injurious to minors

Committee Action

DATE: _____ AMENDED: YES NO

AMENDMENT MADE BY: _____

SECONDED BY: _____

COMMITTEE VOTE

BANNER	<u>YES</u>	NO	BICKERSTAFF	<u>YES</u>	NO
BROOKMAN <i>2 passed</i>	YES	NO	CAPURRO <i>assent</i>	YES	NO
BARENGO	<u>YES</u>	NO	McNEEL	<u>YES</u>	NO
ULLOM	<u>YES</u>	NO			

Disposition

DATE: _____ DO PASS: XXXXX DO PASS AS AMENDED: _____

INDEFINITELY POSTPONED: _____

LABOR AND MANAGEMENT COMMITTEE - 57TH SESSION

DATE: 3-1-73 BILL NO.: AB 350 SPONSOR: Banner

SUBJECT: Requires employers to furnish wage information to employees regularly.

Committee Action

DATE: 3-1-73 AMENDED: YES NO

AMENDMENT MADE BY: McNeel

SECONDED BY: Ullom

COMMITTEE VOTE

BANNER	<u>YES</u>	NO	BICKERSTAFF	<u>YES</u>	NO
BROOKMAN <i>second</i>	<u>YES</u>	NO	CAPURRO <i>second</i>	<u>YES</u>	NO
BARENGO	<u>YES</u>	NO	McNEEL	<u>YES</u>	NO
ULLOM	<u>YES</u>	NO			

Disposition

DATE: _____ DO PASS: _____ DO PASS AS AMENDED: XXXXX

INDEFINITELY POSTPONED: _____

Amendment presented to the committee by Mr. McAdam of Nevada Bell .