

J O I N T    H E A R I N GSENATE COMMERCE AND LABOR COMMITTEE AND  
ASSEMBLY LABOR AND MANAGEMENT COMMITTEE

MARCH 7, 1973

MEMBERS PRESENT: Senator Drakulich, Chairman  
 Senator Blakemore  
 Senator Hecht  
 Senator Pozzi  
 Senator Lamb

Mr. Banner, Chairman  
 Mrs. Brookman  
 Mr. McNeel  
 Mr. Capurro

GUEST SPEAKERS: John Reiser, NIC  
 Del Satterwaite, Nevada Wood Grower's Association  
 Van Sorenson, Elko County  
 Bob McCoy,  
 Ruby Duncan, Welfare  
 Dr. Gerald Higgins, NIC Medical Review Board  
 Venita Runkle  
 John Massey  
 Dr. Petty, NIC  
 Bob Kerns, Peace Officer and Firefighters  
 Claude Evans, NIC  
 Karvel Rose, NIC  
 John Wagasky, International Brotherhood Electrical  
 Workers

Senator Drakulich called the meeting to order at 3:00 on March 7, 1973. He made a few comments on how the hearing was to be conducted and then called on Mr. John Reiser of the Nevada Industrial Commission to begin the testimony.

Mr. Reiser began with SB 186, which eliminates numerical exemptions to industrial insurance occupational disease coverage and broadens occupational coverage. The concept of this bill is that the present numerical exception exclude employers with fewer than two employees. These employees are often the ones that need this type of coverage most. Proposing that numerical exemptions be eliminated and that all employees with some certain minor exceptions be covered by compulsory coverage. Also require that some agriculture employees be covered under the act if they have more than \$1,000 payroll.

Delroyd Satterwaite representing the Nevada Wool Growers Association and also the Ellis Ranching Company stated that the Wool Growers Association must oppose the bill because it includes agriculture within it. It not only takes away ones free agency but gives the feeling that this is just the start of what might happen if bills and laws of this nature are enacted in Nevada. Also feel that any bill that makes a law mandatory is not the type that they feel

JOINT HEARING  
SENATE COMMERCE AND LABOR COMMITTEE AND  
ASSEMBLY LABOR AND MANAGEMENT COMMITTEE  
March 7, 1973

Page 2

is exceptable, especially an administrative bill. The inclusion of agriculture to NIC insurance was probably put into help support an insurance that is already very costly and will probably go another 25%. This doubles the rate now of private carriers. They believe that everyone engaged in this field will have enough insurance to cover himself without this additional cost. They want to maintain the privilege of making their own choice on a competitive basis from a private carrier. Right or wrong they feel that they deserve this consideration. Believe anything that is forced upon them they will resist whether it is army aggression or just a matter of insurance. Realize that insurance is a vital and necessary part of their business but please leave it on the private competitive carrier basis.

Van Sorenson from Elko County representing the Elko County Farm Bureau, Nevada State Farm Bureau, and Sorenson Ranching Co. stated that they suggest that SB 186 not be passed because it does include agriculture under a mandatory basis. Favor using private insurance carriers instead of NIC. Feel that exclusive control by NIC would not provide better rates and benefits. Cited the postal department of United States where the public is turning more and more to private carriers. If NIC has a strict monopoly on this they feel that the best job will not be gotten. Competition and free enterprise are necessary to maintain the best rate, service and benefits. In Nevada 40% of the livestock and agriculture business are using private carriers. 60% are under NIC. They therefore request that agriculture and livestock business be excluded from this bill.

Mr. Reiser stated that he wished to point out that the coverage these gentlemen were talking about are medical expenses rather than the broad disability income and medical expenses that are required under NIC Workmen's Compensation. This coverage for agriculture stems from a National Study and a number of states have an agricultural exclusion at the present time and it is a hazardous industry and so the rates tend to be consistent with that hazard. It is an attempt by the state to upgrade their existing programs so that a Federal Workmen's Compensation program will not become necessary.

About 1/2 the states exclude agriculture but a number of these have some legislation under consideration right now.

Senator Herr stated that she objected to covering the employers with less than two employees. Puts a burden on the little man.

Mr. Reiser stated that these small employers would also cause them problems in administration and number of employers to work with but that they felt that these employees should have the same coverage.

JOINT HEARING  
SENATE COMMERCE AND LABOR COMMITTEE AND  
ASSEMBLY LABOR AND MANAGEMENT COMMITTEE  
March 7, 1973

Page 3

Mr. Reiser then stated that ranchers are paying about \$8.42/\$100 which is determined by the losses which are encountered in the classification - the number of serious accidents in this classification is quite high. Mr. Sattlewaite stated that their coverage for the same thing was \$5.32/100 with a private carrier. Mr. Reiser said that he did not believe that they had as good of coverage as NIC.

SB7 empowers Nevada Industrial Commission to provide rehabilitation services. This bill would give Workmen's Compensation Commission authority to provide any and all rehabilitation benefits as they may deem necessary to return a man to gainful employment. Requires that eligible workmen participate in rehabilitation program as a condition for drawing benefits. Reason for this bill is that NIC presently has no authority to provide these benefits. One of the primary responsibilities of NIC and would like the authority to provide this type of benefit. Problem is that although they are cooperating with Rehabilitation Division of the State there is no requirement that a workman must participate. Hope to see a comprehensive rehabilitation program which very few states have as yet.

There is a very good followup period whereby a team of specialist in all fields of rehabilitation would help the injured man. For the most part the workman will be treated by their own physician it would only be the more seriously injured who has an employment program that would need this concentrated program.

Bob McCloy, representing \_\_\_\_\_ Company, stated that they are basically in favor of this bill but have a number of question. He wanted to know if the funds would be charged back to the employer responsible and would they make use of the existing facilities.

Mr. Reiser stated that the it would be funded by the employer and the charge<sup>be</sup>would against their account. In the past there was a great amount of duplication of test, exams, x-rays etc. because there was no concentrated program. The bill was made quite broad so that existing programs and facilities could be utilized.

Mr. Coy asked how the workers will be selected - volunteer, tested what?

Mr. Reiser stated that every employee who can not return to his previous position will be interviewed by a vocational counselor and 95% of the cases will be returned without long drawn out retraining programs. The rest would be tested and what would be most practical would be decided.

JOINT HEARING  
SENATE COMMERCE AND LABOR COMMITTEE AND  
ASSEMBLY LABOR AND MANAGEMENT COMMITTEE  
March 7, 1973

Page 4

AB 24 Dr. Petty was introduced by Mr. Reiser and he in turn intorudced Dr. Higgins a member of the Medical Review Board to explain AB 24. Dr. Higgins comments can be found in EXHIBIT A\* as presented to the committee by Dr. Petty.

Ruby Dunan commented that she did not feel that this part of NIC with the medical board was working and she cited her own personal case. She felt that perhaps somebody on the board should represent those who had been injured and perhaps had even been injured himself.

Venita Runkel of Reno also told how she had been hurt on the job and had never really received satisfaction. She had been sent out of state for treatment and then told that she was fine and each time she would go back to work she would get worse until now she can hardly move. She said that she kept getting sent here and there but her doctor was not kept informed of what was being done for her.

John Massey, a Reno resident who used to work for workmen's compensation in California Corporation Bureau, wanted to know if the review board had a schedule for evaluating subjective back injuries that is uniform throughout the state. It is meaningless to appoint agroup unless they have a uniform set of measurements to communicate with Commission. Otherwise a group could come up with as many conclusions as there are members.

Judge Rice, Reno attorney, asked Dr. Higgins if it was their feelings that this bill will empower the medical review board to pass final and bind decisions in the event of a review by the court. Would it be binding on the court and not subject to review.

Dr. Petty stated that the crux of this presentation was answered by one question - when a medical question arises who is best qualified to adjudicate this question - a judge, a jury or an authoritative medical board?

Bob Kerns representing the Peace Officers and Fire Fighters stated that they had no objections to medical board finds binding but object to it being binding on the employees. An employee may go to their own doctor and he should determine whether the employee is well or not - but not the board. Person would normally have more faith in their own doctor. Something should be in the bill that would allow one or more doctors may be consulted and that the opinions of your own doctor should have some valid. There should also be should also be some recourse other then this boards decision.

\*See Exhibit A for the 3-8-1973 meeting of Senate Commerce and Labor.

JOINT HEARING  
 SENATE COMMERCE AND LABOR COMMITTEE AND  
 ASSEMBLY LABOR AND MANAGEMENT COMMITTEE  
 March 7, 1973

Page 5

Dr. Higgins commented that usually the injured person has been seen by several doctors and 90% are seen by their own doctor. They have every right to see anybody they wish. This board is just a place where the buck has to stop.

Mr. Kerns stated that it does not say that in this bill. It may mean that but it does not say that.

Mr. Banner then asked Dr. Petty what constituted an examination. Dr. Higgins explained briefly about the time spent studying the files, talking to the patient and then the final examination and stated finally that 90% of the claimants that come in want not to be able to get back to work but they want a higher settlement.

Mr. Banner stated that he was concerned because it would be final and binding and that he wanted to know just how good it really was.

Dr. Petty stated that since Mr. Banner had been on the NIC that they have gotten a much better quality of medical members who are on the review board. These members are board certified and there was no need to worry.

SB 183. Senator Drakulich stated that in SB 183 on page 6, Section 6, subsection 11 which is lines 26-34 had been deleted.

Mr. Reiser stated that the purpose of this bill was to increase Workmen's Compensation benefits and to eliminate the arbitrary maximums that are presently applied to each of these. Substitute state average weekly wage as a maximum weekly wage considered.

Page 1 - average monthly wage is defined as the actual wage received on the day of injury or state average weekly wage as most recently computed by Employment Security Department during fiscal year preceding the date of injury multiplied by 4.33. Instead of \$416 maximum for permanent total disability, \$500 maximum for temporary total disability and \$335 maximum death benefit the states average ~~weekly~~ month wage as maximum considered would be used across the board. \$693 would be the figures considered.

Line 22 - amendment provides that any prior disability would be considered in arriving at subsequent disability, but could not be paid for more than 100% disability.

In the past the Commission has paid lump sums on permanent partial disability but they recommend and encourage that they give monthly awards and should be a lifetime pension.

Page 2 - Throughout the bill talk about 66 2/3% of the states average wage. This would be \$462 maximum for the various benefits.

Mr. Banner asked if worker earned more than the average state wage and was killed how much would the widow get. Mr. Reiser stated that she would get \$462 plus Social Security. If he worked-for public employee there may be no Social Security.

Next was Claude Evans, Labor Representative on NIC, who stated that he used to appear as a union representative and a severe critic of NIC. These bills now being presented have been a year in preparation and are necessary as they are making a move in the right direction.

As a labor representative Mr. Evans main concern is the working men and women of Nevada. He then proceeded to distribute a prepared statement which gives a look at proposed NIC legislation through the eyes of the working man and woman of Nevada. These are recommendations of the National Commission and have been presented to organized labor who feel it is a step in the right direction. He stated that most of his time on the board has been to try to rectify what is wrong with NIC and he believes that this is a good package for the working man. Exhibit B

Senator Pozzi commented that he was getting a little tired of the little businessman paying the bills. Feel sorry for the poor taxpayer that has to foot the bill. It is always said that everything is agreed between labor and management but nobody ever asks the small businessman.

For the package there is estimated increase of between 15-20% and only one source of payment for this and that is the employer. There has been a 48% increase in premium in the last 2 years stated the Senator. Nobody seems to be representing the taxpayer.

Mr. Evans went on to say that President Nixon had appointed a Commission and the increase we speak of here are the bare minimums that this Commission reported back with and if states do not bring their workmen's compensation in line with federal guidelines by 1975 there is going to be a federal Workmen's Compensation program.

When workmen's compensation came about the employee gave up his right to sue in the case of injury on the job and in the case of death the widow can not sue. It should be a better benefit then the \$167.50 offered now.

Mr. Reiser then stated that SB 183 would allow NIC to continue to administer Workmen's Compensation at the state level instead of having NIC become federal workmen's compensation.

Senator Drakulich asked Mr. Reiser if a person on permanent total disability dies does his benefits go to the widow. Mr. Reiser stated that the benefits would be discontinued unless the

\*See Exhibit B for the 3-8-1973 meeting of Senate Commerce and Labor.

death was directly caused by the permanent total disability.

Judge Rice then asked if doesn't this bill change the law as to how to determine permanent partial disability.

Mr. Reiser stated that the fundamental change in the permanent partial disability part is that under the present law if a man is say 30% disabled he is entitled to \$280 maximum for 30 months. This is a formula worked out over the years. Permanent partial disability is a lifetime injury and should be paid for life. This proposal working lifetime benefits.

Example: 30% of the maximum or in this case would be 50% of the state average weekly wage or approximately \$350 per month for working lifetime until 65 or for 5 years which ever is greater.

It would put the responsibility of permanent partial disability on the industry which was responsible for it.

There are very good controls for lingering or litigations.

Mr. Reiser stated that he believed that the attorneys would support 90% of this package and only disagree on 2 or 3 items.

The fundamental change in the permanent partial disability benefit would be instead of subjective determination of loss of earning capacity under lifetime pension there would be no further subjective loss of earning capacity. Employer, employee and commission would have nothing but maximizing earning capacity as an objective and there would be no incentive to remain off the job.

This is the most expensive item in the package but they believe it is one of the best and most fundamentally important items in the package. It takes the emphasis off loss of earning capacity and puts it on maximizing earning capacity.

Judge Rice then asked if it does not change the rule that has been fundamental since beginning - limit the Commission to just fixing permanent partial disability to the medical facts only and nothing else can be considered such as mental anguish etc.

Mr. Reiser stated that it was taken into consideration that the man would be entitled to rehabilitation benefits and the permanent partial disability benefits. Original "No Fault" concept required objective view by law rather than subjective that requires litigations. Concept puts emphasis on returning to work and awards that man that does return to work.

Judge Rice then stated that it does away with what the court said in Crosby was necessary to determine permanent partial disability - the act says that you can only consider the physical disability and nothing else.

SB 367 provides commission supervision of private workmen's compensation plans. Under present law Insurance Division has no jurisdictions over workmen's compensation and the Commission has no jurisdiction on private insurance that were grandfathered in under this law.

The Commission believes that somebody should have the responsibility of obtaining and maintaining statistics and require private carriers to submit data so that there would be no problems.

SB 187 which would allow for interstate compacts and cooperate with other states so that if a man is injured in Nevada and is hired in California it would eliminate the years of court determinations before liability is fixed. Allow us to pay benefits then determine liability. Would also eliminate double coverage.

SB 184 amendment asked for the last meeting so that the Commission would only rent to other state agencies. Eliminates the provision of being able to rent to private industry and thus keeps NIC from going into the real estate business.

SB 185 puts the definition of total disability in accordance with what court generally interprets as total disability. Total disability being the inability to perform any occupation consistent with education, training or experience. Here again NIC would like to encourage rehabilitation program.

SB 188 is the subrogation bill which is minor clarifying language. Would cover the estimated liability as well as expenses - recovering from the 3rd party rather than employer until NIC benefits had been exhausted in terms of that recovery.

Would have an actuary as a consultant on a part time basis .

SB 368 which NIC feels is one of the most important items for both employees and employers. Provides for a stop order on these employers that fail to provide coverage for employees. Now employee can only sue if injured and the employer has failed to provide mandatory coverage. This sounds good except employer who is not or can not pay bills is not a very good source for injured workman to sue.

Mr. McNeel asked Mr. Reiser what the procedure was now. Mr. Reiser stated that at the present time they post notices to notify employees but it is not an effective method. Asking authority to actually go in and lock doors in necessary.



There has been between 300-400 delinquent accounts and it can be worked out for deferred payments by the employer.

Senator Drakulich felt that this may be hurting employee as well as the employer because they would be without a job.

Mr. Reiser stated that that was a valid point and the authority would have to be used with discretion.

Karvel Rose of the NIC in Las Vegas stated that at the present the procedure is as follows:

1. Notify employer by mail
2. Telephone or personal contact with employer
3. Post the premises
4. Issue summons
5. Subpoena
6. Writ of Mandamus

John Wagasky, Business Representative of IBEW stated that he did not feel that the union should be put in the position of having to shut a place down. It has been done in the past but it should be NIC that does this. They should do the policing duty.

Because of the lateness of the hour Senator Drakulich stated that the defer any further testimony until the next year.

Respectfully submitted,

Sandee Gagnier,  
Assembly Attache