

Assembly

2-0449

GOVERNMENT AFFAIRS COMMITTEE

MINUTES OF THE MEETING

March 17, 1975

MEMBERS PRESENT:

CHAIRMAN DINI
VICE CHAIRMAN MURPHY
ASSEMBLYMAN CRADDOCK
ASSEMBLYMAN HARMON
ASSEMBLYMAN MAY
ASSEMBLYMAN MOODY
ASSEMBLYMAN SCHOFIELD
ASSEMBLYMAN FORD
ASSEMBLYMAN YOUNG

ALSO PRESENT:

Mr. Jim Wittenberg, Department of Administration
Mr. Gordon Cronenberger
Mr. Bob Gagnier, State Employees Association

(The following bills were discussed at this meeting: A.B. 361,
A.B. 360).

Chairman Dini called the meeting to order at 8:00 A.M.

The first bill on the agenda to be discussed was A.B. 361, which enacts State Employee-Management Relations.

Mr. Bob Gagnier testified first. He stated that Mr. Lockhart, President, would also testify. Mr. Gagnier stated that A.B. 361 was passed last session 39-1. He stated that in the past two years it has been refined. Mr. Gagnier stated that they were trying to do things that they were unable to do two years ago because of lack of time. He stated that the bill was designed to cover every agency including the university system. This bill spells out that the university is included. He stated that it does not apply to any faculty, but only to classified employees. The bill authorizes the Personnel Advisory Commission to administer the law. They already have control of classified employees through the rule making policy. This bill would prohibit strikes and provides remedies. He stated that it was the same as NRS 288. It also defines administrative employee to include all unclassified employees. Administrative employees will be covered under this law. They are now exempt. He stated that there are some agency and division heads that are classified heads. Classified employees are defined under 284.150. The Commission means Advisory Personnel Commission.

Mr. Gagnier stated that confidential employee is defined to mean any classified employee whose duty relates to employee/employer relations. It would include attorneys and all professional staff.

It further defines public employer as the University of Nevada and all agencies of the state.

Mr. Gagnier stated that an abuse of the sick leave would be considered a strike under the Dodge Act. This is covered by verbiage in Section 288.

In Section 13 the bill provides for the right of organization. In Section 14 they have defined who was responsible for negotiations in the Executive Branch of the Government. It is the duty of the governor or his designated agent on behalf of every public employer to negotiate. He stated that the language in Section 14 was there two years ago. He referred to the last sentence in that section and stated that they could go to the highway department and negotiate a supplemental agreement that would just apply to highway. It would keep the master agreement very short.

He stated that Sections 15 and 16 would be matters which would be subject to negotiation. Two years ago an effort was made to limit the number of negotiable issues. Limitation of them would be impossible.

Mr. Gagnier then passed out a list to the committee members which might be negotiated between the state and an employee. He stated that this was only a partial list.

Mr. Gagnier stated to the committee that in the federal service they cannot negotiate overall salaries, but that they have a list of three pages of issues being negotiated. He further stated that if we attempted to list every negotiable issue the bill would be too cumbersome. He stated that it gave the management negotiating team very broad powers. They have tried to steer away from that. Mr. Gagnier stated that they have mentioned some major issues in Section 15.

Section 16 of the bill deals with management perogatives.

Mr. Gagnier stated that in subsection 2, although those are management rights, the impact of those rights is negotiable. He stated that they felt that they should be able to negotiate layoff procedures. The rule should be negotiable. He stated that although they cannot tell an agency not to discharge an employee, it should be negotiable.

He stated that the remainder of the bill is very much like NRS 284 except for section 18, on page 4. Section 18 sets up two negotiation units.

1. For all classified employees, except confidential employees; and
2. For confidential employees.

Mr. Gagnier stated that Section 19 sets up timing. He

stated that local governments operate on a one-year budget. The budget starts in late fall or early winter. Their budget starts in the middle of summer. He stated that it should be noted that this bill does not provide for binding arbitration, only advisory arbitration.

Mr. Gagnier stated that the remainder of the bill is the same as Section 288. He further stated that this bill involves the new hearing officer.

Mr. Dini asked if the committee had any questions to ask of Mr. Gagnier.

Mr. Dini asked if they were preempting the university.

Mr. Gagnier stated that where classified employees are concerned, yes.

Mr. May referred to page 5, lines 12 through 17 of the bill.

Mr. Gagnier stated that he did not think that we could put into the bill that it be automatic. The only way that this could be done was like the State of Michigan plan where it is in the constitution. It would still be a legislative prerogative to pass on anything agreed upon.

Mr. May asked Mr. Gagnier if he was successful and then he came to the legislature and they said no, what the result of this impasse would be.

Mr. Gagnier stated that it is a flaw in the whole thing. He further stated that this was not uncommon in collective bargaining. Oregon has that provision now. He stated that a savings clause would be put in. The two parties immediately have to meet and try to reach an agreement on the best manner that that should be done.

Mrs. Ford stated that Mr. Gagnier had mentioned with regard to the University System that it only applied to classified employees. Mrs. Ford then referred to NRS 284.150. She asked if this was where only classified people from the university are covered. She asked where it pointed out that the university was covered.

Mr. Gagnier stated that he believed it was under 240.

Mrs. Ford questioned the definition of confidential employee, and referred to the last 5 words "of the state personnel division. Mr. Gagnier stated that that would apply to all the professional staff. Mrs. Ford stated that it was not clear to her. Mr. Gagnier stated that that was the intent of the draft, to apply only to professional staff.

Mrs. Ford asked if the 250 confidential employees would be all employees of the State Personnel System.

Mr. Gagnier stated no, it would include attorneys, etc.

Mrs. Ford referred to the time portion on page 5, the first part of section 19 and she indicated that written notice has to be given for negotiating. She stated that the timing does not apply concerning working conditions.

Mr. Gagnier stated yes. It is the same in 288.

Mrs. Ford asked if the timing was only for budget and Mr. Gagnier replied yes.

Mrs. Ford stated that it was not clear in 19 and 21 that this is only to apply to the budget process.

Mr. Gagnier stated that they felt that there was a need for a time limit regarding budgets. Mrs. Ford stated that on other items it should be made clear that you do not have to follow this time limit.

Mr. Gagnier stated that several references have been made to the University and Board of Regents and the Executive Branch of government. He stated that the university had admitted that they come under NRS 284 and were subject to the contracting provisions in that section.

Mr. Schofield asked with regard to the arbitration factor why it takes so long. Mr. Gagnier stated that knowing arbitrators, it is probably not enough time. Mr. Gagnier stated that if they did a good job, their report could be lengthy. Two months is not too long.

Mr. Schofield questioned the cost of the arbitration.

Mr. Gagnier stated that the state pays 1/2 and the organization pays 1/2 of the cost. Mr. Gagnier referred to a case two years ago. The cost was \$3,600.00 and worked out to \$1,800 each.

Mr. Gagnier stated that the cost runs up because for some reason the American Arbitration Association rarely recognizes any members from Nevada even though we have a number of them in Reno and Las Vegas. Mr. Schofield asked if they were normally submitted. Mr. Gagnier stated that they never come out of the American Arbitration Association with a Nevada member on it. He stated that he did not know the reason for it. Mr. Schofield asked if there was a cost for a mediator. Mr. Gagnier stated that you could just mutually agree on some citizen. The cost for an American Arbitration Association mediator would be approximately \$250 to \$300 per day, plus expenses.

Mr. May referred to page 5, lines 37 and 38 and asked what the advantage was of striking. Mr. Gagnier stated that whoever strikes the first name does not get to strike the last name. He stated that he would rather strike the second one himself. He further stated that that was the way the Dodge Act is written.

Mr. Dini asked Mr. Gagnier with regard to the American Arbitration Association, how he would feel about a plan which would say that first choice would be an American Arbitration

2- 0453

Association member residing in Nevada or even by mutual agreement someone from out of state.

Mr. Gagnier stated that he did not know how many were in the State of Nevada.

Mrs. Ford referred to page 8, Section 31 and asked if the commission has to follow the rules of 233(b). Mr. Dini stated that section 37 referred to the Administrative Procedures Act.

Mr. Dini then referred to the penalties for strike in Section 27. He stated that the probability of any court imposing a \$50.00 fine for each day is practically nil.

Mr. Gagnier stated that they would just not do that. He stated that quite frankly the history is generally before the strike is settled they agree that no penalties could be imposed. Mr. Gagnier stated that we do not envision any strikes in the future.

Mr. Dini stated that the act does not define impasse.

Mr. Gagnier stated no it did not.

Mr. Dini asked if they tried to define "good faith" bargaining.

Mr. Gagnier stated that it does not actually define good faith.

Mr. Schofield asked if we could find out about arbitration in the state of Nevada.

Mr. Gagnier stated that there was a member of the American Arbitration in the State of Nevada here at the meeting.

Mr. Sharp stated that he thought there were three arbitrators from northern Nevada and that the state probably had a total of 6 or 7 and 8 at the most. Mr. Dini asked if he would find out for the committee and get back to the committee. Mr. Gagnier stated that he doubted whether or not the state administrator would want a professor to be an arbitrator.

Mr. Dini asked if there was anyone else who would like to testify with regard to this bill.

Mr. Wittenberg testified next. He stated that it was important to understand the full effect of the merit system. He stated that that was substantially why state employees were not put in the Dodge act. He referred to the list of items that Mr. Gagnier had distributed to the committee and stated that it probably points out better than anything that through the merit system some time ago they had negotiated. He stated that 80% of the items are subject to grievance procedure in orderly fashion. He stated that this was done because the kinds of issues are the kinds of things that needed to be adjudicated. He stated that the imposition of national legislation on the states would be most undesirable. He stated that in view of the threat of national

2-0151

legislation they were forced to do so. Mr. Wittenberg then stated that the issues which were most objectionable were as follows:

1. Page 1, line 17. The personnel advisory commission being substituted in the role of the existing EMRB. He stated that the hearing officer would not adjudicate a number of things which should be done.

Mr. Wittenberg stated that two sessions ago they initiated legislation for a hearings officer. This would do the same. You cannot ask lay commissioners to serve two days a week and have the quality that is needed. If we used a personnel advisory commission they should be hired by the hearing officer. They feel that the EMRB would be the body to do this.

2. On page 2, on line 6, the question of the unclassified service or administrative personnel. They feel that perhaps the administrative employee should have an opportunity to collectively bargain. They should be in a separate unit. The confidential employees should not have been provided the opportunity to bargain collectively. He stated that if any group needs the opportunity to bargain collectively as a separate unit, it is the administrative personnel or employees.

3. Line 22, section 9, the last sentence beginning with the words "other than clerical and accounting". They feel that it is important that they all be considered confidential employees.

4. The scope of negotiability.

They feel that many of these things now are subject to that process in the merit system. You cannot bargain impact and methodology and not bargain the issue.

He then referred to Line 26, Item 1 - and stated that it may be shown that a particular function can be contracted out and if it is in the public interest that should be done. He stated that those in general were his objections.

He stated that many of the things had been subject to a negotiating and collective bargaining process.

He stated that the next area of concern is the definition of bargaining, page 4, line 45, section 18 and he read the definition to the committee. The issue here is basically freedom of choice.

He stated that there are employees who have indicated that they do not want SNEA to represent them. To eliminate the choice is wrong. What may be top priority for one group may not be for another. There is some middle ground on that issue. He felt that when issues of impasse are submitted to the arbitrator or to the legislature they should be issues not just with financial impact. They feel that the entire package should be presented to the legislative body. He stated that a body of people that are elected should have the financial say.

2-0455

Mr. Wittenberg then stated that there were a number of other items. Line 7, page 38. Mr. Wittenberg stated that this was an example of an item which should be negotiated and not provided for in the law. He stated that they do provide through the merit system, administrative leave for certain officers to attend SNEA business. He stated that this should be gained in collective bargaining. He stated that those are the areas where they have serious differences with legislation and the things that they wanted to touch on.

Mr. Dini asked if there were any questions.

Mr. May stated that the commission itself, as he reads it, has some heavy responsibilities, but it seemed to him that the commission is simply advisory and is assisting his office.

Mr. Wittenberg stated that he did not think that it worked this way. He stated the commission was responsible for setting all compensation, all rules and regulations. He thinks that when Mr. Gagnier mentioned advisory that it was somewhat misleading and that it should be removed. Mr. Wittenberg stated that they meet about once every three month. Mr. Wittenberg stated that there were 5 members now, and that the average length of time was probably 12 to 14 years. He stated that there has been good continuity.

Mr. May referred to the hearings officer. Mr. Wittenberg stated that this needs to be broadened considerably. He stated that the issues that the hearings officer or commission would be deciding could be fairly time consuming.

Mrs. Ford asked if he was saying that it should not be the existing hearing officer but that it should be an additional one.

Mr. Wittenberg stated that in his opinion, yes.

Mrs. Ford stated that Mr. Wittenberg would like to take personnel advisory commission out of the bill and replace it with hearing officer. She stated that he had mentioned EMRB, and asked Mr. Wittenberg what their involvement was.

Mr. Wittenberg stated either the hearing officer or the EMRB. He stated that that was not a strong issue.

Mr. May asked if there was more than one bill.

Mr. Wittenberg stated yes. The most likely one to pass was HR 87-66.

Mr. May asked Mr. Wittenberg if he was anticipating some requirement that states must have some type of bargaining.

Mr. Wittenberg stated yes, but that it may not be as likely to pass this session as they think. He stated that we should continue with the existing structure only until we are

forced to do so.

Mrs. Ford asked if this was passed in Washington if it stated when it would apply for the states if the states do not have their own act?

Mr. Wittenberg stated yes. It would be effective immediately, within 30 or 60 days.

Mrs. Ford asked how many states had it now. Mr. Wittenberg replied probably half of the state have something more than the meet and confer law. Probably not more than half have something as specific as the Dodge Act. Mr. Wittenberg stated that there are some states that still do not have good merit systems.

Mr. Schofield asked under the merit system now, what right of appeal does an employee have.

Mr. Wittenberg stated that on a dismissal, suspension or demotion, to the hearings officer. From there it goes to personnel advisory commission and then it goes to court. He stated that they probably have 12 pending before district or supreme court.

Mr. Wittenberg stated that for pay classifications or examinations they may be appealed directly to the advisory commission. For the matters listed on Mr. Gagnier's list, they go to employee management committee. He stated that three employee representatives are appointed by the governor. The grievance procedure has been developed so that every item could go to either one of the three.

Mrs. Ford asked if the merit system is in the book of rules that presently the commission prepares. She stated that it would go through a public hearing system. She stated that it appeared that what they may be interested in is being able not to start from scratch but to take what is there now.

Mr. Schofield referred to page 3 to inter-departmental transfer. He asked what this was referring to. Mr. Wittenberg stated that this referred to people that are working in one agency but want to be placed on a transfer list. They are considered by binding authority. That is why they have not been able to reach agreement with the employee's association. They should look at the transfer, but the person should be among the choice that they have.

Mr. Schofield asked what percentage of grievances are in the budget portion category.

Mr. Wittenberg stated that the majority of grievances that go the employee management committee are in the non-fiscal area.

Mr. Schofield asked how the handling under the merit system has been as far as the employee is concerned. Mr. Wittenberg replied that it has been satisfactory. For the most part they feel that it is an objective body and that the body is doing a

2-0457

good job.

Mr. Murphy asked if Mr. Wittenberg could supply the committee with a copy of the rules for the state personnel merit system.

Mr. Wittenberg stated that he would.


Mr. Dini asked if anyone else wished to testify or if there were any questions.

Mr. Dini then stated that he was appointing a subcommittee consisting of Mr. Murphy, Mr. Wittenberg and Mr. Gagnier and himself to work on this bill.

Mr. Dini then referred to A.B. 360, the mining bill and stated that counsel was working on the amendment and when they were received back, the committee would again discuss the bill.

There being no further business to come before the meeting, the meeting adjourned at 10:30 A.M.

Respectfully submitted,


Barbara Gomez,
Committee Secretary

ASSEMBLY

AGENDA FOR COMMITTEE ON..... GOVERNMENT AFFAIRS
MONDAY,
Date MARCH 17, 1975..... Time 9:00 A.M. Room 214.....

2- 0448

Bills or Resolutions
to be considered

Subject

Counsel
requested*

A.B. 361

Enacts State Employee-Management
Relations act.

NOTIFY: Mr. Gagnier
Mr. Wittenberg
Governor's Office

GOVERNMENT AFFAIRS COMMITTEE

GUEST REGISTER

DATE: March 17, 1975

NAME	BILL #	REPRESENTING	TESTIFYING
Richard Martin	AB 361	S.N.E.A.	No.
Daryl Harold	AB 361	S.N.E.A.	
Gale V. Lockard	AB 361	SNEA	
Roger Laird	AB 361	SNEA	
Kim Koenig	AB 361	SNEA.	
Fern Hills	AB 361	SNEA	No
Jim Wittunby	AB 361	Dept. of Admin	Yes
Jordan Cronenberg	AB 361	Dept. H.R. Dir. Off.	No
Bob Gagin	AB 361	SNEA	Yes
Mike Kersey	AB 361	SNEA	No.
Don Leahy	AB 361	Administration	No

The following is a list of items which might be negotiated between the State and an employee organization representing its employees. The list in no way implies that SNEA would want to negotiate all of these issues but that these could be, or have been, problem areas.

- Salaries, number of grades, number of steps and percentage between steps and grades.
- Intra and Inter departmental transfers.
- Impact of contracting out of normal state services.
- Methodology of examinations and classifications.
- Per diem and mileage allowances.
- Longevity pay.
- Insurance benefits.
- Rest Rooms and rest periods.
- Safety equipment.
- Uniforms--laundry of uniforms, type, weight.
- Physical examinations.
- Ventilation, light, heat.
- Required use of Government quarters.
- Length of lunch periods (scheduling).
- Cleanliness and sanitation.
- Locker facilities.
- Noise.
- Enforcement of safety rules.
- Responsibility for determining that working conditions are safe.
- Special procedures for hazardous work.
- Special qualifications for participation in hazardous work.
- Provision of required physical examinations.
- Scheduling for holidays and overtime.
- Scheduling for rotation of shifts (notification of changes).
- On-call; standby.
- Posting of schedules in advance.
- Vacation schedules.
- Hours of work--beginning and ending of shifts (notification of changes).
- Leave for union activities.
- Procedures for leave requests.
- Premium pay; hazard pay.
- Schedules changes.
- Time and method of reporting sick leave absence.
- Provisions to assure that employees will be able to use the leave they earn.
- Policies concerning granting of leave without pay.
- Policies concerning "administrative" leave.
- Travel and transportation.
- Doctor's certificate following sick leave.
- Standards of conduct.
- Code of penalties.
- Conduct of hearings.
- Methods of settlement of grievances.
- Severity and appropriateness of penalty.
- Levels of review.
- Provisions to forbid discrimination restraint or reprisal.
- Union representation at hearings.
- Time allowed employee and representative to prepare appeal.
- Record of the hearing.
- Development of standard penalties.
- Reckoning periods.
- Means used for developing merit roll.

Seniority.
Posting of vacancies.
Use of promotion examinations.
Composition of promotion (evaluation) Boards.
Planning for survey.
Selecting appropriate Industries (or private hospitals).
Analyzing findings in Industries.
Step increases.
Uniform allowances (special clothing).
Method of payment, cash, check, mailing.
Clean-up time.
Tools and equipment.
Frequency of surveys.
Use of surveys conducted by other agencies or organizations.
Development of programs.
Selection for training--selection criteria.
Retraining because of change of work character.
Bulletin boards; messenger service.
Negotiation procedures.
Duration of the agreement.
Determination of management and employee organization
representatives in negotiation.
Negotiation on official times.
Procedures to insure enforcement of the agreement.
Membership and participation in union activities.
Determination of the type of positions which disqualify
members from holding office in the organization.
Identification of management personnel.
Stewards and representatives.
LWOP for union activities.
Dues withholding.
Listing of employee organizations and organization officials
in the building directory and the telephone directory.