

March 11, 1975

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MEMBERS PRESENT: Chairman Banner
Vice-Chairman Moody
Mr. Barengo
Mr. Benkovich
Mrs. Hayes
Mr. Getto
Mr. Schofield

MEMBERS ABSENT: None

GUEST SPEAKERS: See Attached Guest Register

Chairman Banner called the meeting to order at 9:40 A.M., for the purpose of discussing A.B. 315. He stated that A.B. 241 and A.B. 287 would also be discussed, if time permitted; and that A.B. 312--314--& 270 would be scheduled for a later date.

The first speaker for the bill was Stan Jones, Nevada State Labor Commissioner. He stated that, at the present time, the requirements in A.B. 315, as it stands, are requirements for records that are kept under the provisions of the Fair Labor Standards Act, but that the State of Nevada does not require that the records be maintained, and that many employers and employees find it difficult to substantiate various items, particularly in the case of the many employers that are not covered by the FLSA. That it makes it almost impossible to prove a fact, without documentation, and that, for that reason, the Labor Commissioner's office is in favor of A.B. 315.

Chairman Banner asked Mr. Jones if this was the same bill that the Committee had seen before, and was it a first or second draft.

Mr. Jones said that it was a second draft.

Mrs. Hayes asked if the \$100 fine on Line 18 would be per employee, or would be multiplied by the number of employees an employer had.

Mr. Jones said that it was not a per-employee fine.

Mr. Barengo asked if it was made a law, which would make it a crime, how could certain persons be exempted, such as the public utilities companies, as provided in Section 1, sub-section 5, line 19.

Mr. Jones answered that he did not know, but that it seemed to him that there were other Acts that exempted certain persons and companies.

Mr. Barengo asked why the public utility companies were exempted?

Mr. Jones answered that he believed that the utility companies had made a request to the committee in 1973, and that the bill was amended to exempt them at that time.

Mr. Getto asked if, since this bill was going to cover the employers who were exempt under the provisions of the FLSA, did Mr. Jones have any figures on how many employers in the state have less than 2 or 3 employees

Mr. Jones said that he did not have any statistics on this.

Mr. Getto asked if this bill would cover those employers, and Mr. Jones said that it would.

Mr. Getto said that he was disturbed by the fact that those employers, under the bill, have to keep their records for two years, and that some small companies do not employ a bookkeeper, and that it might work a hardship on them.

Mr. Jones replied that it was incumbent upon the employee to submit certain information to the employer, and the Labor Commissioner's office felt that the employee was entitled to know the facts of his earnings, and the amount of time he was being paid for, as expended for the benefit of his employer, so that he could check that those facts were correct, while the information was still current.

Chairman Banner asked if those details would necessarily have to be listed on a part of the check, and Mr. Jones replied that they would not have to be, but could be explained independently.

Mr. Lou Paley, representing the Nevada State A.F. of L and the C.I.O. was the next speaker in favor of the bill. He said that they believed that there should be a bill along this line required, and cited the instance of a contractor who built a million dollar complex, paid his employees in cash, and did not pay into NIC or Employment Security on their behalf. He also mentioned that there were frequently small contractors coming into an area, underbidding local contractors, and paying their employees in cash, thus giving them no protection as cited above.

Chairman asked if there was anyone else who wished to speak in favor of the bill and, since there was not, he opened the floor to the speakers against the bill.

The first speaker was Raymong Bohart, representing the Federated Employers of Nevada. He stated that the interests he represents were not against the basic provisions of the bill, but that they were concerned about the duplication of record keeping, since they already kept those records for the Federal Government. He stated that the IRS also requires that the records be kept, and that A.B. 315 would just give one more government agency the right to come in and audit an employer's records. He said that he would encourage the committee to amend the bill to give specific exclusion to employers who were already covered by the FLSA.

Mr. Barengo asked Mr. Bohart if he interpreted the bill to mean that two sets of records would have to be kept, or if he

objected to the fact that two different agencies would have the right to audit them.

Mr. Bohart said that he objected to the latter, as it raised the bookkeeping costs for the employer, interrupted the business day, and raised the cost of doing business, which was ultimately passed on to the consumer.

Mr. Barengo said that it seemed to him that the thrust of the bill was that the records be kept, and could be looked at, and that he did not think the State would make it a point of looking at every employer's records, thus interrupting their business, unless there was a good and just cause for doing so.

Mr. Bohart said that he interpreted the thrust of the bill as being to pick up those employers not covered by the FLSA.

Mr. Getto asked if Mr. Bohart's concern was the duplication of auditing, who would the bill be authorizing to audit, the Labor Commissioner?

Mr. Bohart replied that in the case of claims, the Labor Commissioner already had the right to audit the records.

The next speaker against the bill was Mr. Clint Knoll, who represented the Nevada Association of Employers, and he stated that they were concerned for the following 3 reasons:

1--They concurred that the bill was discriminatory, as it excluded the public utility companies.

2--As he understood the bill, the requirement is to list "all" deductions on the pay check per se, and from a legal point of view, that would have to include meal-offsets, and many other fringe benefits, which would require a very large pay check.

3--He said that since Section 1, sub-section 2, provided that the employer should furnish the required information to each employee on each payday, did that mean that the information on all other employees had to be furnished, and that he thought the language should be clarified.

Mr. Barengo asked Mr. Knoll how he felt about Section 5, and Mr. Knoll replied that he did not know how the utility companies, who were already under the jurisdiction of other agencies, kept their records, and therefore he had no comment on Section 5.

Mr. Getto said that, since some employers furnished homes, transportation, etc. to their employees, did Mr. Knoll interpret the bill to mean that all of those "fringe benefits" would have to be listed on every check, every payday.

Mr. Knoll replied that he represented Basic, Inc. for example, and said it was often referred to as a "company town", and that they furnished many things to their employees that were not listed on the check stubs, and that it was handled by the accounting department in a manner he was not sure about. However, what he was concerned about was putting all the information on the check.

Mr. Getto asked if employers give breaks to their employees such as giving them gasoline, etc, at a wholesale price. Mr. Knoll replied that many employers give their employees many different types of merchandise and services at a discount price, especially in the retail area, and that the utility companies give a discount on their employee's utility bills, in many cases.

Mr. Barengo asked if Mr. Knoll's main objection to the bill was Section 2; and Mr. Knoll suggested that Section 2 be deleted, and asked if the committee would have any objection to just stating that the records must be maintained, and made available upon request.

Chairman Banner said that he remembered one case where that would not have been practical; where a 16 year old girl had to go to the Labor Commissioner to collect her last two day's wages, and if she had not had a check stub, she would not have been able to collect at all, since the main office of the firm was in Salt Lake City, and they were very uncooperative about furnishing any information at all.

Darryl Capurro, representing the Nevada Motor Transport Assn. and the Nevada Franchised Auto Dealers Assn. was the final speaker against the bill.

He stated that the employers he represented were, for the most part, small employers who have 5 or less employees, and that regarding Section 2, it would just add another problem to the problems they already have; that in a small office where a bookkeeper is not employed, it would be an extra expense. He did not believe that it would present a problem to the large employer who operated on a computer basis, but that the small employer did not have that facility available.

That his employers had no basic disagreement with the requirement to keep records, but that they concurred that another agency having the authority to come in and audit was an added burden, and that Section 2 would just require one more piece of paper for every employer to handle on every pay day. He stated that the amount of paper work every small employer had to maintain now was simply staggering. He also made the point that it should be unnecessary to put any information on the check regarding the NIC or Unemployment Security amounts, since these monies were paid by the employer, and not deducted from the employee's wages.

Chairman Banner asked if anyone else wished to speak against the bill.

Mr. Bohart asked if the information required would include things like free parking for the employees, which on occasion, the labor unions insisted upon as a condition of signing a contract with the employer.

Chairman Banner said that he would interpret the bill to say that it would include that, if the money for such parking was deducted from the employee's wages, and not furnished as "fringe benefits"

Mr. Getto said that he really wondered how the Attorney General's office, or a court of law would define "compensation" and "fringe benefits".

Chairman Banner asked if Mr. Stan Jones could enlighten the Committee as to the answer to Mr. Getto's question, and Mr. Jones thought that Mr. Bohart should answer it, since he had originally introduced the subject into the discussion.

Mr. Bohart stated that under #516, the employer is required to show "total compensation" for time spent by the employee on the behalf of the employer, but that he thought there were specific sections that covered fringe benefits.

Mr. Getto asked if they included room and board as salary, and Mr. Bohart said "yes, if they are in lieu of salary".

Chairman Banner said that the hearing on A.B. 315 was concluded, and that A.B. 256 would be voted upon.

Mr. Schofield moved that a "do pass" recommendation be given A.B. 256, as amended, and the motion was seconded by Mr. Moody. Mr. Benkovich asked if the amendments in A.B. 256 were retro-active to January 1, or effective upon passage.

Chairman Banner said July 1, upon passage.

The Committee voted unanimously to give a "do pass" recommendation to A.B. 256, as amended.

Mr. Benkovich stated that he would like to make a motion that a sub-committee be formed to look into the amendments of A.B. 287. Chairman Banner appointed Mr. Benkovich and Mr. Barengo as the sub-committee, with the concurrence of the other members.

Mr. Benkovich said that he would like to make a motion that would give him the Committee's permission to draft a new bill, and Chairman Banner asked him upon what subject.

Mr. Benkovich said that if a woman was only required to work 2 hours overtime, in addition to a "normal" work day, he would like the number of hours in a normal work day specified.

Mr. Getto objected to the drafting of a new bill, since it was past the 40th day of the session.

Mr. Benkovich withdrew his motion, and agreed to clarify the subject in an amendment to A.B. 219.

Chairman Banner introduced a letter from Judge Thompson, allowing a delay of action on a pending labor case, as requested by the Committee on February 25. (Attachment #1)

Mr. Schofield moved to adjourn the meeting, and Mr. Benkovich seconded the motion.

The meeting was adjourned at 10:30 A.M.

Respectfully submitted,

Betty Clugston
Acting Secretary

9:30 -

Date March 11, 1975 Time 10:50 Room 336

Bills or Resolutions
to be considered

Subject

Counsel
requested*~~AB 314~~

Includes cash tips and cash gratuities
in definition of wages for purpose
of determining unemployment compensation
and industrial insurance compensation.

AB 315

Requires employers to furnish wage
information to employees periodically.

AB 256

AB 287

AB 219

United States District Court

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District of Nevada

Chambers of
Bruce R. Thompson
United States District Judge

5147 Federal Building
300 Booth Street
Reno, Nevada 89502

March 6, 1975

Labor Management Committee
Nevada Legislature
Legislative Office Building
Carson City, Nevada 89701

Gentlemen:

I acknowledge receipt of your request under date of February 25, 1975 signed by all members of the Assembly Committee requesting a delay of action on the pending labor case until the Legislature has acted.

That request is granted.

Very truly yours,



BRUCE R. THOMPSON

DATE: March 11, 1975 LABOR & MANAGEMENT COMMITTEE

LEGISLATION TO BE CONSIDERED: AB# 315

PLEASE PRINT LEGIBLY

Only those persons who have registered below will be permitted to speak. All persons wishing to present testimony will please sign in below, stating their name, who they represent, and whether they wish to speak for or against the matter to be considered by the committee. Witnesses with long testimony on matters before the committee are encouraged to present their information in writing and make oral summary limiting it to five minutes or less. If you wish to speak more than five minutes please contact the committee chairman or the committee secretary. Questions from other than committee members are not in order and are not allowed. No applause will be permitted.

FOR

NAME	REPRESENTING
<u>Stan Kelley</u>	<u>Nev. State P.S.C. 10</u>
<u>Stan Jones</u>	<u>Nevada State Labor Commission</u>
<u>DEO GENDRISON</u>	<u>TEAMSTERS UNIONS of Nevada</u>

WALTER DREW (ESD) (?) Emp'oy Sec Dep't.

AGAINST

NAME	REPRESENTING
<u>Raymond A. Schart</u>	<u>Federated Employers of Nevada</u>
<u>Clint Knoll (KNOLL)</u>	<u>Nevada Association of Employers</u>
<u>Robert</u>	
<u>Daryl E. Caputo</u>	<u>Nevada Motor Transport Assn. Nevada Franchised Auto Dealers Assn.</u>