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

MEMBERS ABSENT: None

The meeting was called to order at 9:40 A.M. by Chairman Banner, for the purpose of discussing A.B. 241 and A.B. 287.

The first speaker in opposition to the bill (A.B. 287) was Mr. Clint Knoll, representing the Nevada Association of Employers. He spoke from a prepared statement, a copy of which is attached, and hereby made a part of this record. (Attachment 2). He stated that he was particularly opposed to Sections 3, 4 and 5.

Mr. Benkovich asked Mr. Knoll if he was familiar with the suggested amendments to the bill, and said that he thought that the changes that had been made, might make the bill more agreeable to Mr. Knoll and his employers. Mr. Knoll replied that he had not read the amendments. He was then provided a copy of them by Mr. Stan Jones, Nevada State Labor Commissioner.

The second speaker in opposition to A.B. 287 was Mr. Ray Bohart, representing the Federated Employers of Nevada, and A.G.C. He stated that the legal counselling staff of both organizations had reviewed the bill, and that they agreed that the bill was unconstitutional and unthinkable, they felt that it was an invasion of power on the State level, and that they were opposed to it, in its entirety. He also stated that he was not familiar with the proposed amendments, and Mr. Stan Jones furnished him with a copy of them.

Mr. Bob Alkire, representing Kennecott Copper was the third speaker in opposition to A.B. 287. He stated that, even with the proposed amendments, he doubted that the bill would be acceptable. He said that his interests negotiated with a multiplicity of unions, and that he remembered in their last negotiation, there were 51 labor unions involved. He asked the question, "If, in the course of negotiations, one union, or a minority of the unions involved, were displeased with some provision of the contract, and they asked for a hearing before the Labor Commissioner, would the Labor Commissioner's ruling be binding on all of the unions involved"? He also said that they were also disturbed by the fact that they were afraid that the State would be dragged into a great number of minor labor disputes, that

Mr. Lou Paley, representing the Nevada A .F. of L. and the C.I.O. spoke first in favor of A.B. 287. He said that, in answer to the question raised by Mr. Alkire, "If the A.F. of L. and the C.I.O thought for one minute that A.B. 287 would disturb any of the Union's power for collective bargaining, they would not be supporting it. He said that they support it for several reasons.

1--In looking at the other State departments, for instance the Employment Security Department, they can enforce the laws, they have an appeals board, a review board, and a private attorney that works with them in some instances.

2--In the Workmen's Compensation Act, there had been a provision for "trial de novo" for 62 years; that two years ago, the provision had been taken out and the employers screamed to high heaven, but that they had found that the Act was much better now. He stated that they do not support a "trial de novo" in A.B. 287.

3--The NIC has their own attorney, and their own procedure. First, a claim is presented to the claims department, then you go before the Commissioner, and, if you are not satisfied with his decision, you go to an appeals officer. If you are still not satisfied, then you go to court.

He stated that every one of these departments have their own procedure, but that the Labor Commissioner's authority is loosely drawn, and that they believe he should have the same authority as any other Commissioner to enforce the laws of the State of Nevada. That it was about time that the Labor Commissioner had the authority to take care of the workmen's problems when they occur. He said that perhaps this specific bill is not exactly correct, but he believed that some type of legislation is needed, and has been needed for some time, and that he hoped the Committee would come out of hearings with something along this line.

Mr. Bob Price, Assemblyman from District No. 17, Clark County was the second speaker in favor of the bill. He stated that, for the record, he would like to state that for the past few years he had been the Business Manager for Local 357 of the International Brotherhood of Electrical Workers, and had the responsibility for the negotiations of that Local, in approximately 38 different contracts. From his past experience, he felt that there was a great need for some type of amendment to the Labor Commissioner's powers That he had experiencedconsiderable difficulty in past years, getting the District Attorney's to move on the various labor problems that people had. He said that he did not really feel that A.B. 287 was a bill that would be of great assistance to the Labor Unions per se, but more of a bill that would help the small people. That, if there was a violation of State Labor Laws, there would be a way for these people to be helped, within a reasonable amount of time.

He said that on Page 1, he was not quite sure of the intent, in the place where the bill stated that a copy of the place where the bill stated that "a copy of the proceedings should be mailed to all persons involved", and he suggested that the language be clarified, with the words "upon request" added; as there might be people who would not care to pay for a copy of the proceedings. He stated that he did support the concept of the bill, and agreed with the statements made by Mr. Lou Paley: that the State does have many agencies that do make determinations of law, even though they are not attorneys, and that any person who woks with the statutes, day in and day out, whether they be union personnel or State agency personnel, becomes so familiar with the statutes that they, in effect, become para-legal persons, even though they are not actually attorneys. That, because of this familiarity with the statutes, and with the back up attorneys that they have access to, he felt that the percentage of times that the head of any agency would get off base, would be "very small".

Chairman Banner said that, if there was no further testimony regarding A.B. 287, the floor was now open to discussion of A.B. 241.

The first speaker in favor of A.B. 241 was Stan Jones, Nevada State Labor Commissioner.

First, regarding A.B. 287, he said he hoped that everyone would remember that they were talking about an "office" of the State of Nevada, and not about the present holder of that office, and also taliing about giving that office the ability to perform, under Nevada Revised Statutes.

Re--A.B. 241, he said that he hoped it would not have any opposition, as it was merely a housekeeping prodedure, to correct an error made by a bill drafter, probably the first one ever made by the Legislative Council Bureau. They inserted in 6071150, they inserted Chapter 618, thereby removing certain provisions as to the responsibilities of the Labor Commissioner, those responsibilities being:

1--examining safeguards and methods of protection for employees, examining sanitary condition of buildings and surroundings, and making a record thereof.

2--In 1973, and prior to that, the law (607) read that the Labor Commissioner would have the ability to enforce 607, in accordance with the law, but that the person drafting the bill, erroneously inserted 618 instead of 607.

3--That the intent of the Nevada State Legislature was that the Labor Commissioner continue to have these responsibilities.

Chairman Banner asked if this was in Chapter 618.

Mr. Jones replied that these were extracted from 607.150 and put into Chapter 618, which is the "Occupational Safety and Health" chapter of the State of Nevada, which the Labor

Commissioner does not administer or enforce.

4--That A.B. 241 had been prepared by the Legislative Council Bureau, to correct the error, and was merely a housekeeping bill.

5--That the Labor Commissioner had no jurisdiction in Chapter 618, but that he was sure the Legislature's intent was that the Labor Commissioner continue to administer Chapter 607.

Mr. Barengo asked Stan Jones if the folowing were true, "If you can gather the information under Chapter 618,the way it reads now, you would have much broader authority, am I not correct"?

Mr. Jones replied that the Labor Commissioner would have a narrower authority scope, because it would only permit his office the authority provided for in Chapter 618, and not the authority provided for in Chapter 607. He stated that Chapter 618 was purely the concern of the NIC and the Occupational Safety and Health" Act, and had nothing to do with the Labor Commissioner's office.

Mr. Jones suggested that perhaps the Committee would like to review tha law, the way it read prior to 1973, and what happed prior to the time that 607.150 was erroneously changed. He believed that if they would research the law prior to 1973 and what happened in the 1973 session, they would see the necessity for removing Chapter 618.

Mr. Knoll next spoke, stating that they had no objections to the removal of Chapter 618 (the reference to it that was made in Chapter 607.150, since it was obviously an error.) However, he said that, even under Federal statutes, the inspectors must confine their inspections to certain times, and within certain limitations, that they could not ask for profit and loss statements, etc., that they could only ask for material that was germane to the area that they were inspecting. He stated that A.B. 241 contained no limitations at all, and suggested that the language be clarified, so that the Labor Commissioner could not be accused of going on "fishing expeditions". He said that he certainly realized that the Labor Commissioner must have some authority, but that in respect to A.B. 241, he would like that authority more clearly defined.

Chairman Banner asked if anyone else would care to speak on A.B. 241, and Mr. Ray Bohart spoke.

He said that they clearly recognized the need for the Labor Commissioner to conduct investigations, in the specific area where he has legislative ability and authority, but that he would suggest the following procedure:

1--Notify the employers, say two weeks in advance that the

Labor Commissioner had reason to believe that a violation of State statutes had occured, and specify the details of the alleged violation. He stated that most employers are already under the jurisdiction of several agencies, and that any investigation by the Labor Commissioner's office should be limited in scope to the area of the specific alleged violation, and that he suggested that the bill follow along with Federal statutes, as Mr. Clint Knoll suggested.

Chairman Banner said that the hearing on A.B. 241 was now concluded.

Mrs. Hayes moved to adjourn the meeting. Mr. Benkovich seconded the motion.

The meeting was adjourned at 10:15 A.M.

Respectfully submitted,

Betty Clugston
Acting Secretary

AGENDA FOR COMMITTEE ON LABOR & MANAGEMENT

Date March 13, 1975 Time 9:30-10:45 A.M. Room 336

Bills or Resolutions to be considered	Subject	Counsel requested*
A.B. 287 A.B. 241	(Continue Hearing on these Bills)	116

*Please do not ask for counsel unless necessary.

DATE: March 13, 1975 LABOR & MANAGEMENT COMMITTEE

LEGISLATION TO BE CONSIDERED: A.B. 241 & 287

122

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
Stan Jones	Nevada State Labor Commission
Lew Dalley	" " A.F.L.-C.I.O.
Bob Price	Assemblyman Dist 17
Gino Del Carlo	NBA Reno, NV

AGAINST

NAME	REPRESENTING
Raymond D. Gobart	Federated Employers of Nevada, Inc.
Clint Knoll	Nevada Ass'n of Employers (See attached mem)
Bob Alkire	Kennecott Copper Corp.

Not concurred in ☐
Date:
Initial:

Not concurred in ☐
Date:
Initial:

Distributed by Mr. Bentsvich 3/13/74
Amendment #5485 to H.B. 219

Attachment 1

Amendment No. 5485

123

Amend section 2, page 1, by deleting line 4 and inserting:

"2. "Employee" includes both male and female persons, but does not include employees delineated within the provisions of 29 U.S.C. § 213(b)(1), (2) and (3).".

Amend sec. 5, page 2, by deleting lines 4 through 7 and inserting:

"Sec. 5. A part of wages or compensation may, if mutually agreed upon by an employee and employer in the contract of employment, consist of meals. No cas

AS Form 1a (AMENDMENT BLANK) 3044A

Drafted 3/12/74 By [illegible] (Room)

To Engrossment (4) CFB

shall the value of the meals be computed at more than $1.50 per day. In no case shall the value of the meals consumed by such employee be computed or valued at more than 35 cents for each breakfast actually consumed, 45 cents for each lunch actually consumed, and 70 cents for each dinner actually consumed.".

Amend section 7, page 2, by deleting lines 16 through 25 and inserting:

"(a) More than 40 hours in any scheduled workweek;

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled workweek.

2. The provisions of subsection 1 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.25

(b) Employees who receive compensation for employment at a rate not less than one and one-half times the minimum rate provided by NRS 608.250;

(c) Outside buyers;

(d) Retail commission salespersons if their regular rate is more than one and one-half the minimum wage, and more than one-half their compensation comes from commissions; and

(e) Employees whose rate of overtime pay is established by, or who are specifically exempted from the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201-219, inclusive).".

Amend section 8, page 2, by deleting lines 38 through 46 and inserting:

"3. This section does not apply to situations where only one person is employed at a particular place of employment.

4. This section does not apply to employees included within the provisions of a union contract.

Amendment No. 5485 to Assembly Bill No. 219 (BDR 53-634) Page 3

Sec. 9. All uniforms or accessories distinctive as to style, color or material shall be furnished to employees by their employer. If a uniform or accessory requires a special cleaning process, and cannot be easily laundered by an employee, such employee's employer shall clean such uniform or accessory without cost to such employee.".

Amend sec. 11, page 3, by deleting lines 1 and 2 and inserting:

"Sec. 11. 1. It is unlawful for any employer to discriminate between employees, employe within the same establishment, on the basis of sex by paying lower wages to one employee".

Amend sec. 11, page 3, line 5, by inserting after the period:

2. The provisions of subsection 1 do not apply where wages are paid pursuant to:

(a) A seniority system;

(b) A merit system;

(c) A compensation system under which wages are determined by the quality or quantity of production; or

(d) A wage differential based on factors other than sex.

3. An employer who violates the provisions of this section shall not reduce th wages of any employees in order to comply with such provisions.".

Amend section 13, page 3, by deleting line 13 and inserting:

"check or draft drawn only to the order of the employee unless:

1. Such employee has agreed to some other disposition of his or her wages; or

2. The employer has been directed to make some other disposition of such employee's wages by:

(more)

(a) A court of proper jurisdiction; or

(b) An agency of federal, state or local government with jurisdiction to issue such directives.

Such checks or drafts shall be payable on".

Amend the bill as a whole by deleting section 16 and renumbering sections 17, 18 and 19, as sections 16, 17 and 18.

Amend title by deleting line 3 and inserting:

"regard to sex; providing for time and one-half payment for overtime work by certain employees;".

Attachment 2

Clinton G. Knoll
Nevada Assn. of Employers

Re: AB 287

The most serious objection to this Bill is found in Sections 4 and 5 as follows:

Section 4, paragraph 1 empowers the Labor Commissioner to "issue his written decision, based upon written findings or fact and conclusions of law developed by him or by his deputy (underscored for emphasis) at such hearing". This language can be literally interpreted as conferring upon the Labor Commissioner and his deputy the right to practice law without benefit of legal training or legal credentials.

Section 5 taken in its entirety gives such written decision (again, by a layman) the effect of law in that:

--it limits the right of petition for judicial review to the Labor Commissioner; the parties to the dispute appear to be precluded from right of appeal.

--it restricts the court from taking "additional evidence".

--it requires the court to base its considerations on the "record of hearing"; a record developed in an atmosphere where from our past experience the Labor Commissioner assumes the role of investigator and judge, ruling on the admissibility of evidence.

Section 3, paragraph 1 stating "...when, in the determination of the Labor Commissioner or his deputy, a dispute arises or an enforcement question is presented under any labor law of the State of Nevada...", is language which permits the Labor Commissioner or his deputy to unilaterally determine that any matter has become a "dispute" and intervene, or to set varying determinations of what a "dispute" actually is. What the Labor Commissioner may determine is a dispute may not in fact be a dispute, insofar as the parties involved are concerned.

There is a conflict between AB 287 and NRS 607.210 as to the place a hearing is to be held. Present law requires that "testimony shall be taken in some suitable place in the vicinity to which the testimony is applicable". AB 287 would add to that: "any place suitable to the convenience of the persons involved, if practicable, otherwise in a place of the Labor Commissioner's or deputy's choosing". This may be a minor criticism, but the thrust of the new language seems to favor the Labor Commissioner because it effectively vetos the requirement under present law that the vicinity is controlling and ultimately makes him the sole arbitrator as to the place.

Section 3, paragraph 2 limits giving of notices of any such hearings to "...persons who, in the opinion of the Labor Commissioner or his deputy, are likely to be affected by his decision." This wording (1) limits notices to those who, in the opinion of the Labor Commissioner or his deputy, are likely to be affected by his decision, and (2) precludes giving of notice to persons who may have facts to present at a hearing and prior to the rendering of any decision, and (3) precludes giving of notice to those who ask to be noticed.

There is no time period established during which the Commissioner or his deputy must issue a written decision. Merely says "at the conclusion of the hearing".

Section 3, paragraph 3 the 10 day notice of hearing requirement is too short and could result in inadequate time allotment for preparation. Conceivably, a notice mailed on Thursday might not reach the parties until the following Monday thus depriving the parties of 5 days actual notice.

Section 4, paragraph 2 provides that "...The decision becomes enforcible 10 days following such mailing (of the decision)." No enforcement authority or procedure is set forth; no penalties are set forth for failure on the part of the parties involved to comply. And further, the language quoted in Section 3, paragraph 1 "...or an enforcement question is presented..." suggests the entire procedure is a hoop.

Section 6 provides the decision is "...binding on all parties to the Labor Commissioner's hearing who received notice..." This language could be construed to mean the Labor Commissioner might declare a dispute to exist involving one employer within an industry group, summon all employers in the group to the hearing, then render a decision in this one dispute involving this one employer which would be applicable to all employers in the entire industry group.

Conclusion AB 287 is viewed as a not so subtle attempt to acquire more unwarranted power by the Labor Commissioner's office while neutralizing the checks and balances of such power existing in present procedures. Present and adequate statutes now exist which authorize the Labor Commissioner to enforce all labor laws not specifically and exclusively vested in any other office, board or commission and provides his office with the power to take testimony, issue subpoenas and prosecute violators through the appropriate district attorney's office.

It would be difficult if not impossible to amend AB 287 to make it acceptable.

NEVADA ASSOCIATION OF EMPLOYERS
Clinton G. Knoll
General Manager

Copy of Utility Company Bill submitted by
Mr. Benkovich--3/13/75

Attachment 3

VOID

This is not a check
Do Not Cash

Statement Of Wages, Authorized Allotments And Taxes

T 1240-NEV (1-75)

Bell Telephone Company of Nevada
See reverse for explanation

NO. 270 652

Employee | Payroll | Soc. Sec. No. | Pay Period

Current Period

Regular	Hours Extra	Premium	City Area	Oth. Payments	Gross Wages	Amt. Advanced	Net Amount

Allotments:

SBI	Comml. Ins	Group Ins Code	Sav. Bonds	Savings Code	Union Dues	Hosp. Med. Pl. Cv	Charit.

D B S	S S P	Code	Pioneer	Adjustment

Tax Data:

Federal Ms Ex	Addl Fit	FIT	FICA	State Ms Ex	Addl Sit	SIT	SDI	Adjustment

Cumulative Tax Data

Total Wages	Excl. Sick Pay	FIT	FICA Wages	FICA Tax	SIT	SDI Wages	SDI Tax