

ASSEMBLY LABOR & MANAGEMENT COMMITTEE MEETING

April 10, 1975 (9:30 A.M. Session)

MEMBERS PRESENT: Chairman Banner
Vice-Chairman Moody
Assemblyman Getto
Assemblyman Hayes
Assemblyman Benkovich
Assemblyman Schofield

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MEMBERS ABSENT: Assemblyman Barengo (Excused)

Chairman Banner called the meeting to order at 9:58 A.M. for the purpose of discussing A.B. 312-314 and 503.

A.B. 312

Pete Kelley, representing the Nevada Retail Association, was the first speaker in opposition to A.B. 312, and he suggested the following amendment to the bill: In Section 1, sub-section 2 (c), line 19, after the word "period" insert the words "which has resulted in an adverse judgement against the applicant."

Attorney Renny Ashleman, representing A.F. of L and C.I.O, was the first speaker in favor of A.B. 312, and he made the following points:

- 1--We have no objections to the amendment Mr. Kelly suggested.
- 2--We do not believe that posting a bond would be a bad thing to do to someone who is trying to go into a small business, particularly a small bar or restaurant, because there is about a 80% rate of failure in these businesses, and it would probably be doing him a favor if you did not let him invest his life savings
- 3--These businesses are easy to get into; furnished with equipment buildings are easy to lease, credit is easy to get, and there are always people willing to go to work. Not the people who are experienced, they won't take a chance on waiting for their wages, but the inexperienced, hopeless and helpless ones who desperately need the protection that this bill would provide. They are both union and non-union people, and it is fundamentally unfair to allow an employer to finance his business with the efforts of his employees, who not only get no interest for their capital invested, but never even see the capital.
- 4--He had several years in the District Attorney's office, and from his experience with the cases that reach that office, not to mention the ones that do not get that far, there are many, many people who wind up not getting paid for their work.

A.B. 312 (Cont.)

- 4--You are basically talking about people who open small businesses, with small capital, but with large hopes as far as what they try to bit off and chew, and it is only reasonable, since these people are starting without any assets, usually, to require that they have at least enough assets to assure that their employees get paid for their labor on behalf of the employer. Time and time again, these places open up, and then fold up in a matter of weeks; the employer yanks the cash out, robbing Peter to pay Paul, and the employees do not get paid.
- 5--When he was with the District Attorney's office there were thousands of these claims filed annually, and in checking with the District Attorney's office in Clark County recently, found that this was still the case.
- 6--There is simply no assets with which to pay the employee when a business folds up. It is an outrageous swindle that the employees seeking their living in a small establishment, usually for a very small wage, winds up getting absolutely nothing for their labor.
- 7--A.B. 312 would not affect 95% of the people who go into business, have sufficient capital to have any chance of success, as it does contain an exclusion for anyone with tangible assets sufficient to cover the bond required.
- 8--This bill is only saying that there should be some hope that this business would succeed, and that people would get paid.

Assemblyman Getto asked him if he could give any specific figures on the number of cases he had referred to, Mr. Ashleman replied that there was never a time, during the years he was the District Attorney's office that there were not thousands of cases on file. Being in and out of the District Attorney's office up until the present, they still have the same load of these kinds of cases, where a labor claim had been established, and it is a fact that 90% of these employees never file a claim, so the problem is much larger than statistics show. That his office filed several lawsuits a month, and they do not bother to organize a business unless it has been open long enough that they can figure it has a chance to succeed, so they don't usually have any contact with the type of small business and bar he had referred to.

The second speaker in favor of A.B. 312 was Lew Paley, representing A.F. of L. and C.I.O., and he made the following points:

- 1--Some of the larger, established places lease out their bar, restaurant or hotel, and if the lessee folds up, there is no way that an employee can get their wages, because there is no physical assets, so that they can file suit and collect their money.

A.B. 312 (Cont.)

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2--We have always believed that the wage claim should come first, which is only after the Federal government comes in and gets their money, and that these people should be protected. This bill has surfaced many times before, in some form and should be passed in some form at this session.

Bill Parish, representing the Nevada Independent Insurance Agents was the second speaker in opposition to A.B. 312. He stated that they were opposed to the bill on the following grounds:

- 1--It puts an undue burden on someone trying to start a business.
- 2--They had ascertained that the only way the surety companies would issue these bonds was with full financial collateral.
- 3--If you eliminate businesses starting up, you eliminate jobs for people.
- 4--The person starting a business may have invested his entire life savings in the venture, and not have the cash left to obtain a bond.

Clint Knoll, representing the Nevada Association of Employers, was the third speaker in opposition to A.B. 312, and he made the following points:

- 1--This bill would not only affect the small businesses as a piece of "class legislation", but goes far beyond that.
- 2--His association is contacted frequently by employers who are considering moving to Nevada and are trying to get the pertinent information regarding working conditions and prevailing wage conditions, etc. These are national and sometimes international firms who want all the information before they make a decision to move here. The Nevada Association of Employers furnishes them with a resume, giving all possible details, and would not like to have to include the fact that an "employer's payroll bond" is required by law.
- 3--Because of the "free port" law, there has been quite an influx of industry into Nevada.
- 4--This bill would not do the job that it was intended to do, as when an industry moves in, which will eventually hire 2 or 3 hundred people, they usually start out with 1 or 2 employees. If he posts a bond on his payroll, this bill could be interpreted to mean that every additional person he hires would require that he post an additional bond.
- 5--Who is going to police this, if it becomes law? This would be an impossibly, encumbersome situation.

Raymond Bohart, representing Federated Employers of Nevada, the Greater Las Vegas Chamber of Commerce and the Southern Nevada Home

A.B. 312 (Cont.)

Builders, was the next speaker in opposition to A.B. 312, and he made the following statements:

- 1--This bill would interfere with local entities and usurp their authority, when they already have their own criteria for issuing business licenses.
- 2--It would be difficult to police, as there is no uniformity of criteria for issuing, enforcing, or policing of business licenses in Clark County. He referred to his experience on a Commission for several months, in Clark County, that had determined this fact.
- 3--A.B. 312, as it stands, includes no fiscal note but, if enacted, someone would have to issue, police and audit, which would be extremely expensive. He knew that the business license departments in Clark County did not have the staff to do it, so additional staff would have to be hired.
- 4--That the State Labor Commissioner and the Federal Wage and Hour Commission are already authorized to file action on behalf of employees, and this bill would be another duplication of governmental authority.

Assemblyman Benkovich asked him if a person could start a business in Clark County without a business license. Mr. Bohart replied that it would be possible, especially in the outlying areas, but would probably be very infrequent.

In answer to remarks made by previous speakers, in opposition to A.B. 312, Attorney Renny Ashleman made the following statements:

- 1--He would not object if this bill was confined to the bar and restaurant business, if that was necessary to get it passed.
- 2--That he represented two local unions in the entertainment industry that required a payroll bond, and that it has been a real boon to the employees. In the past, they had a great deal of trouble collecting their wages, but the bond has helped immensely to solve that problem.
- 3--There has been a long history of proven abuses, for instance, Jimmy Helms, who opened businesses 11 times, ripped them off, closing up without paying his employees. There are also several other individuals in this category, and that he hoped the Committee, at the very least, would consider recommending that it be mandatory that a payroll bond be posted by anyone who had had prior records of successful labor claims being filed against them.
- 4--A.B. 312 would not be a duplication of authority, because the State Labor Commissioner and the Wage and Hour Commission cannot collect when there is nothing to collect from.

Paul Gemmill, representing the Nevada Mining Association, made the following statement in opposition to A.B. 312.

A.B. 312 (Cont.)

I am speaking for the small mine operators who are trying to get started over a vast area of Nevada. Most of the employees of these small operations, which are usually temporary operations, are local people, and they have a pretty good idea of whether it is going to be a successful operation or not. I agree with the former speakers who said that it would be a terrific policing problem.

Since there was no one else who wished to speak on A.B. 312, Chairman Banner moved on to A.B. 314

A.B. 314

Attorney Renny Ashleman stated that he had talked to the N.I.C. management, Raymond Bohart, Les Kofoed, and several others and they were in general agreement that there was some technical problems with A.B. 314, as it stands, and that it would be to everyone's advantage to hold off hearings on the bill until they could go over it, removing some of the technical problems that existed, which would probably remove a great deal of the opposition to the bill. He asked for a delay of a week to ten days, which was granted by Chairman Banner.

Assemblyman Benkovich asked Mr. Ashleman what the problems were, specifically? Mr. Ashleman replied that there were two:

- 1--They would not know until Monday, April 14, if the Internal Revenue Service was going to appeal the "dealer toke problem". They did not want to jeopardize the dealer's position until they knew what the I.R.S. was going to do, and could only amend the bill to deal with the problem when they found out.
- 2--The agency has an objection to the \$20.00 minimum.

Chairman Banner asked if the parties requesting the delay would give the Committee something regarding possible amendments for study, as soon as they found out what the I.R.S. did. Mr. Ashleman replied that they would.

Assemblyman Benkovich spoke first in favor of A.B. 503, since he had written the bill, and made the following statements:

- 1--We did consider, in Committee, amending A.B. 219 to provide the overtime restrictions, but decided to go ahead and make a new bill (A.B. 503)
- 2--I think the bill, as it stands now, is more a matter of intent and attitude on the part of the Legislature, than a matter of legislation and record, concerning the "dignity of the employee".
- 3--Some industries are obviously not tailored to an 8-hour work day. The railroad and agricultural industries would have to be specifically exempted on this bill, the mining industry

A.B. 503 (Cont.)

is already exempt under a Federal act. Mostly, the bill is aimed at an urban worker, who works 9 to 5 everyday, and the real issue is the dignity of the workman. The obvious problem at present is the employer who knows that his employee can refuse to work overtime, so he goes along with that, and later fires him for the way he blows his nose, or some other ridiculous reason.

4--It is ironic that when wage and hour legislation was enacted for women, an 8 hour day was considered with dignity, but now with all employees, regardless of sex, the shoe is on the other foot, and voluntary overtime is not considered the issue any longer.

5--That the bill would be desirable, with the possible amendments that he had suggested, exempting the mining, railroad, and agricultural industries, which were already covered under existing federal or state statutes.

Stan Warren, representing Nevada Bell, was the first speaker in opposition to A.B. 503, and he made the following statements:

1--Some of the service companies would suffer a very serious reaction, if A.B. 503 were enacted, and would affect the product they produce, which is telephone service.

2--There are times, in emergency situations, where they have to work long hours to get telephone service restored, caused by floods, rainstorms, snow, or someone digging up a cable.

3--If there is illness or any other good reason of the employee, they do not object to them altering their hours, but most of the employees have a real spirit of public service, and do not object to working evenings, weekends, or being called back from vacation, all of which has happened to him during his 20 years with the company, and they realize that, in an emergency, everyone must work long hours.

4--Public service companies are 24-hour businesses, and everyone works different hours, sometimes long ones, if necessary.

5--If a repairman is snowbound on the top of Mt. Rose, we have no choice but to work him overtime, but we keep provisions and all up there for these instances.

Chairman Banner asked him, for the record, if Nevada Bell paid time-and-a-half for over 8 hours a day? Mr. Warren replied that they did, and in most departments, double-time for over 49 hours.

Assemblyman Benkovich asked Mr. Warren how Nevada Bell worked under the old labor laws, as he found it ironic, knowing how strongly they felt about the Equal Rights Amendment. Mr. Warren replied that those things took place a long time ago, and that he was referring at this time, to jobs that women held as line-

A.B. 503 (Cont.)

men, or repairman; jobs that could be affected by the elements, over which the company had no control.

Assemblyman Benkovich asked him if Nevada Bell was covered by the 12-hour federal law? Mr. Warren replied that they probably were, since the lines they restore might be inter-state lines.

Chairman Banner asked if Nevada Bell would have any objection to A.B. 503 if it were amended to read 12 hours instead of 10? Mr. Warren replied that he didn't believe it was the number of hours that they objected to as much as the bookkeeping aspects of the bill, and the fact that he didn't believe the public service companies were causing the overtime problem, but would be bound by the legislation, regardless.

Chairman Banner asked how a man would be paid in an emergency situation, where a man was snowbound, but did not have to be on constant duty? Mr. Warren replied that he would be paid, whether he was actually working or not, since he was not able to leave, and would be there to be available if there was something that had to be done. We try to get a man off the job as soon as we can, so he is not a hazard to himself or our operation, because he is over-tired.

Assemblyman Benkovich asked how many employees of Nevada Bell were covered by a written contract. Mr. Warren replied that most of them were

Bob Alkire, representing

Bob Alkire, representing Kennecott Copper, stated that he wanted to whole-heartedly endorse Assemblyman Benkovich's suggested amendment that the mining industry be exempted under A.B. 503, because the industry was already covered under the 608;200 series, and were severely controlled already.

Tom Young, representing Sierra Pacific Power Company, was the next speaker in opposition to A.B. 503. He stated that his company was in agreement with the statements made by Stan Warren, of Nevada Bell, and made the additional points.

- 1--They could not rely on a lineman giving them his consent to work overtime, if there was a hospital out of power, or people without heat in the winter.
- 2--If they had to pull out a crew who had been working on an outage, bring in another crew, refresh them as to what the problem was, and what had already been done to correct it, this would consume time, which would mean that the problem would continue that much longer.
- 3--That he had, personally, worked in excess of 24 hours in the Lake Tahoe area, with 10 to 20 poles down, and a large section of the Lake area without power. During a snowstorm, they worked everyone overtime, because there was no way to allow them to go home for a rest period, and return to work, and there was no one else available to replace them.

A.B. 503 (Cont.)

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Assemblyman Getto asked if, since public utility costs had gone so high, Sierra Pacific was trying to hold costs down, by not requiring stand-by labor? Mr. Warren answered in the affirmative. That they had changed their work schedules, so that rather than have a man on stand-by on a weekend, the weekend was a part of his regular work week. That they also furnished all new employees with an employee manual that stated that they would be expected to work overtime in the case of an emergency, or if the overtime was pre-arranged. That is also stated in their union contract. In the past, they have had arbitration problems, where an employee had refused to work overtime, and the ruling had been in favor of the company, since it was a recognized emergency situation, and it was the employee's obligation to work the overtime.

Assemblyman Benkovich asked what percentage of their employees were covered by written contract? Mr. Young replied that the majority of them were, probably everyone except the clerical staff, and their supervisory people.

Raymond Bohart was the next speaker in opposition to A.B. 503. He agreed with the statements made by the representatives of the public service companies, and made the additional points:

- 1--In addition to the gaming industry there is also extensive warehousing in Clark County, which would be adversely effected by any voluntary overtime legislation, because the refrigeration or storing of perishable goods depended upon delivery schedules, which, in turn, depended on road or weather conditions.
- 2--The labor agreement covering the warehouseman makes a provision for "penalty overtime". Overtime on a daily basis is a penalty, and it has been negotiated, and is covered by a federal statute.
- 3--In the dairy industry, overtime is frequently necessary, so that a shipment of raw milk, delayed by inclement weather, can be processed immediately, as it is extremely perishable.
- 4--In the hospitals, they have made several attempts to go to 4 ten hour shifts as a work week. If an R.N.'s replacement did not show up, they would have to keep her over until such time as a replacement could be brought in.

Assemblyman Benkovich asked what percentage of the warehousemen were covered by a written contract? Mr. Bohart stated that the Teamster's Union had been extremely effective in Clark County, and he would estimate over 90%.

Assemblyman Benkovich asked if the hospitals were covered by a written contract. Mr. Bohart replied that they didn't when he left, but that several unions were trying to organize them.

Assemblyman Benkovich made a motion to adjourn. Assemblyman

Getto seconded the motion.

Chairman Banner announced that the meeting would be recessed until P.M. adjournment. Meeting recesses at 10\$42 A.M.

Respectfully submitted,

Betty Clugston
Acting Secretary

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AGENDA COMMITTEE ON LABOR & MANAGEMENT

Date April 10, 1975 Time 9:30 A.M. Room 336

Bills or Resolutions to be considered	Subject	Counsel requested*
A.B. 312	Requires employer's payroll bond.	
A.B. 314	Includes cash tips and cash gratuities in definition of wages for purpose of determining unemployment compensation and industrial insurance compensation.	331
A.B. 503	Limits hours of overtime an employee may be required to work.	

*Please do not ask for counsel unless necessary.