

ASSEMBLY LABOR & MANAGEMENT COMMITTEE MEETING

April 8, 1975 (2:30 P.M. Session)

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

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MEMBERS ABSENT: None

Chairman Banner called the meeting to order at 2:58 P.M. for the purpose of discussing A.B. 554 and 440.

Richard Bortolin, Appeals Officer for the N.I.C. was the first speaker in favor of A.B. 554. He had also written it, and made the following statements in explanation of the bill, etc.:

1--Called the Committee's attention to a clerical error in the bill. On Page 4, Section 12, Sub-Section 2, Line 19, after the word "to" should be inserted the words "the appeals officer or the commission."

Chairman Banner asked if that was new language, and Mr. Bortolin replied in the affirmative. Chairman Banner asked Mr. Bortolin to explain what his position was, and how it worked within the N.I.C. structure. He made the following explanation:

There are 3 steps in processing a claim in the N.I.C., which can be utilized if a claimant is not satisfied with steps 1 and/or 2.

- 1--They first make a claim to the claims department and have an informal hearing.
- 2--If dissatisfied, he can proceed to step 2, and have a hearing before the Commissioners, where they take testimony, review the case, and render their decision.
- 3--If still dissatisfied, he can appear before the "appeals officer in an adversary hearing. Most of the cases before him have the claimant represented by counsel and the N.I.C. is represented by its counsel. Mr. Bortolin's authority is derived from an Act passed by the 1973 Legislature, which created the "appeals officer", he is bound the Nevada Administrative Procedures Act (NRS 233-B. In a hearing before the "appeals officer" procedures are rather formal, everyone is properly noticed as to the issues, he takes testimony from both sides, and renders a decision

Since beginning these hearings in December, 1973, he has disposed of 137 cases, have a docket of 220 at the present time, and is working on 14 cases at the present time, which leaves about 70 cases, half of which are waiting for hearings because of special

A.B. 554 (Cont.)

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problems, where the individuals have asked for a continuance so that they could get medical records, or could not attend the scheduled hearing, etc. He has one hearing scheduled the first week in June, on his present calendar, and sets all the cases for that time that can be set. He has had 2 matters appealed to the District Court; in one case, the District Court agreed with him, in the second case, the claimant changed his mind and agreed with him. There is one case before the Supreme Court which is a case that questions the constitutionality of the "appeals officer." as such.

In explanation of the bill itself, he stated:

1--Page 1, Section 2, sets out specifically the powers that he felt an administrative hearings officer should have. In Section 2, there is a replacement for 616.225, since 616.225 is repealed at the end of the bill. This was done, because he felt it would be better to replace it, instead of tearing it apart and making numerous changes.

Assemblyman Getto asked how many of the powers in Section 2, the appeals officer already had. Mr. Bortolin replied that the Commission had these powers, but they were not outlined as to his office.

2--Section 3, Page 1, is an attempt to eliminate the necessity of calling witnesses to a hearing. It allows for affidavits to be submitted, and is used in the Alaska and California law, which would expedite the hearings for both sides.

Chairman Banner noted that in a matter he had been involved with before the District Court, affidavits were allowed.

3--Section 4, Page 2, is to provide for a penalty for filing a frivolous claim. In his experience, Mr. Bortolin had heard a few cases, where he questioned the validity of the claim entirely. Several other states have this provision. The person filing the frivolous claim, if they are ruled against, must pay court costs.

Chairman Banner asked if an unsuccessful claimant didn't have to pay the court costs at the present? Mr. Bortolin replied that they did not necessarily have to do so, but made no further explanation.

Assemblyman Schofield asked Mr. Bortolin what position he played if a case was taken to District Court. He replied that under the Administrative Procedures Act, NRS 233-B, the review of the Court is a review of substantial evidence, all the evidence that the appeals officer had heard, but no additional. If there was a right to "trial de novo" (a whole new trial) meant that the Court would look at every bit of evidence, and weigh it. They would hear the

A.B. 554 (Cont.)

whole trial over again, using the "weight of evidence rule", but that the "substantial evidence rule" is prescribed by NRS 233-B.

He stated that the case before the Supreme Court was simply an issue of whether the "substantial evidence rule" would hold up. His position was that a trial de novo was unnecessary, since an agency employing quasi-judicial people to find the facts, was performing its function, and that the function of the Court was to review the evidence to determine if it was substantially correct. That the court had the benefit of all the evidence that had been presented to the "appeals officer", all the medical reports, etc., and they reviewed the case to see if the "substantial evidence rule" had been followed, and then either upheld or overturned the ruling of the "appeals officer"

Assemblyman Schofield asked if he was the only "appeals officer" in the N.I.C. Mr. Bortolin replied in the affirmative, that he travelled between Carson City and Las Vegas, and heard 6 to 8 cases per week, in answer to a question from Assemblyman Moody regarding number of cases and locations where they were heard.

Chairman Banner asked him how the average claimant, who was not represented by counsel, coped with all of the details? Mr. Bortolin replied that he made it very clear to the claimant, prior to the proceedings, that he should be represented by counsel, and follows that explanation with the fact that the evidence heard by the "appeals officer" would be the same evidence reviewed by the District Court, if the "appeals officer's" ruling was challenged. That he was also very careful to see that nobody took advantage of a claimant who was not versed in legal language or procedure, and further offered a continuance if the party wished to obtain counsel.

Chairman Banner asked Mr. Bortolin if he worked for the N.I.C.? Mr. Bortolin replied that he was paid through the N.I.C., but had been appointed by the Governor, and was independent of the Commission, and that no one had ever influenced him, one way or the other.

Chairman Banner asked Mr. Bortolin where his office was located? Mr. Bortolin replied that his office was presently in the N.I.C. Building, solely because the issue of the constitutionality of his office, had not yet been decided. Until it was decided, he saw no reason to put the State to any additional expense, by housing him elsewhere.

Chairman Banner noted that he just wanted the preceding facts on the record, for people who did not understand.

4--Section 5 was written to make it perfectly clear that the "appeals officer" was controlled by NRS 233-B, and also the Commission itself, and that 616 and 617 could be further refined so that they would have more administrative procedures to enable them to act, if the Legislature made those refinements.

A.B. 554 (Cont.)

- 5--Sections 6 and 7 merely extends certain powers to the "appeals officer" that the Commission already has.
- 6--Section 8 (which he considered a very important provision in the bill) This would allow the claimant's counsel and the Commission's counsel to prepare written interrogatories and take depositions from Doctors, for instance, whose schedule often made it difficult for them to attend a hearing, thus expediting things for all concerned. What it does, in effect, is to provide the "civil procedure discovery" rules at the administrative agency level.
- 7--Section 9 is clean-up legislation, which allows the "appeals officer" to have the same powers that the Commission already has.
- 8--Section 10 is for the same purpose as Section 9. So is Section 11. Assemblyman Schofield how much money would be involved, in Section 9, for a claimant to receive a copy of a transcript. Mr. Bortolin said that it would probably be around \$100.00, if they obtained it from the person who had transcribed it, and 20¢ a page, by law, if the N.I.C. furnished them with a copy. That he had found the N.I.C. to be quite liberal in furnishing excerpts, at small cost.
- Assemblyman Schofield asked him in what cases a transcript would be required? Mr. Bortolin replied that it could be 1--If what the claimant stated was at variance with what a witness observed, or 2--if two medical expert's opinion did not agree.
- 9--Section 12 is to allow the "appeals officer" to refer to a "medical review board."
- Chairman Banner asked if he had ever referred anyone to the "medical review board". Mr. Bortolin replied in the affirmative, and noted that it had been quite satisfactory.
- 10--Section 13 deals with the term and salary of the "appeals officer, and Chairman Banner wrote it, as Mr. Bortolin declined to write that section himself. Regarding the salary, it is based on the 20% recommendation for non-classified employees of the State of Nevada. Mr. Bortolin submitted a circular sent to the members of the Bar, which establishes a salary for an "attorney-hearing officer" for the Social Security Administration, and which was used as a guide-line. That letter is attached, and hereby made a part of this record (Attachment 2). Chairman Banner noted that the 4-year term was to insure the "appeals officer's" complete independence

Sub-section 2 is desirable, because a person who deals with attorneys every day, should be well-trained in the law, in Mr. Bortolin's opinion.

Sub-section 3, he also considered necessary, in case anyone

A.B. 554 (Cont.)

For himself, should feel that there is a "conflict of interests" involved on his part. 305

11--Sections 14 and 15 just spell out "policing actions" in order to satisfy the provisions of the Occupational Safety and Health Act. (NRS 617)

R.W. McCoy, representing the Gibbens Company, made the following statement, " We have reviewed this bill, and it is not only something that we can live with, but something that we consider to be necessary and desirable." He complimented Mr. Bortolin and Chairman Banner on their admirable efforts.

John Reiser, of the N.I.C., stated that the bill had been very well written and very well explained, he had nothing to add, and was in complete support of the bill.

Rowland Oakes, representing Associated General Contractors, stated that he was in favor of the bill, and considered the language in Section 13 excellent, as it insulated the "appeals officer" from political pressures.

Raymond Bohart, representing Federated Employers of Nevada, the Greater Las Vegas Chamber of Commerce, and the Southern Nevada Home Builders, stated that it appeared that the "appeals officer" had been doing a fine job, but suggested that the Committee look at the following items:

- 1--Page 1, Section 3, Line 20
- 2--Page 2, Lines 1 and 2

Due to the mail service, he would suggest that there be some relaxation of the time limits called for in those 2 places, but that the bill was well-written, and was a good piece of legislation.

Assemblyman Benkovich asked him if he would like the bill to read that notifications be made by "certified mail"? Mr. Bohart said that this provision would satisfy his objections. Assemblyman Schofield asked what the cost of certifying the mail would be. John Reiser replied that, considering the amount of mail, the cost would not be a problem.

Since there was no one else who wished to speak on A.B. 554, the Chairman moved on the discussion of A.B. 440.

A.B. 440

John Reiser, of the N.I.C. was the first speaker in favor of A.B. 440, and made the following statements:

- 1--The intent of A.B. 440 is to broaden the coverage, to allow for coverage of sole proprietors, and to include coverage for the

A.B. 440 (Cont.)

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- employees of the small employer, on a compulsive basis, with the coverage for sole proprietors being elective. It also eliminates the occupational exemptions that have been in the statute in the past.
- 2--This bill is part of a group of bills that have been studied over the past 2 years by the Labor and Management Advisory Board, and has a number of provisions to make the coverage realistic.
- 3--Page 1, Section 2 is designed to restrict coverage to Nevada residents, to prevent out-of-state people from being able to purchase this coverage, which is very good coverage for the price.
- 4--Section 3, sub-section 2 was put in, because without these medical restrictions, there would not be equity in rate-making. The rate would be different if standard, or sub-standard health was involved, for different individuals who might elect to take this coverage.
- 5--Page 2, sub-section 5, line 11, provides for a "deemed wage" of \$300.00 per month, as in preliminary rate studies, we they that if they went much above that figure, the costs might be \$150.00 per month, but at the \$300.00 figure, they could be held down to about \$50.00, which would make the coverage realistic in price.
- 6--All the above refers to sole proprietor, elective coverage. On Page 2, Section 5, sub-section 3, line 46, the intent is to give the same coverage to employees engaged in hazardous occupations, such as farming or ranching, that is required for employees in other occupations.
- 7--Page 3, Section 6, the intent is to eliminate the "numerical exemption" so that the employee of the small employer can be covered, with the idea that the small employer often has less in the way of assets, in the event the employee is injured on the job, and has to bring legal action against his employer.
- 8--The rest of the changes are basically "housekeeping changes" which are necessary because of adding the 3 areas of broadened coverage described above, and to change the language so that there is "parallel wording" with NRS 617, the O.S.H.A statute.
- Assemblyman Benkovich asked why in Section 3, sub-section 2, the N.I.C. would provide the scope of the examination, in the case of sole proprietors submitting to physical examinations. Mr. Reiser explained it was so stated to prevent a person obtaining an examination from a chiropractor, who did not have the training or laboratory facilities to do some tests, for instance, an electrocardiogram, which might uncover a heart condition.

A.B. 440 (Cont.)

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Assemblyman Schofield asked the reason for the "yearly" examination? Mr Reiser replied that it was so the rates could be kept correct, in view of parties possibly suffering in the condition of their health, which might put them in a different category, which would necessitate a change in their rate. Assemblyman Schofield asked if this annual exam was required in any other area? Mr. Reiser replied that it was not, because this was a brand new thing, it had never been done before, and there was no check and balance as in the case of the employer-employee relationship. What they would be doing was writing medical expense, disability, income protection insurance. That the medical exam would only determine the rate for the protection, and not allow them to turn down anyone, regardless of the risk factor involved, as a private insurance carrier could do. That the rate would be determined by the type of industry concerned, and the state of the proprietor's health.

Raymond Bohart, representing Federated Employers of Nevada, the Greater Las Vegas Chamber of Commerce, and the Southern Nevada Home Builders spoke in opposition to A.B. 440, for the following reasons:

- 1--The sole proprietor was already covered under A.B. 50, and does not need to be covered again. A.B. 50 was sponsored by 33 of the Assemblyman, and received a "do pass" recommendation from the Committee on April 3. It restored the privilege to the sole proprietors of electing to take coverage, which was taken away by the 1973 Legislature. We find A.B. 50 very effective.
- 2--In 616.060, sub-section 3, page 2, lines 46 through 48, it eliminates the exclusion of household, domestic workers. We feel that this is a very minimal area of employer-employee relationship, and we find it objectionable.
- 3--In 616.285, page 3, lines 5 & 6, the language making the coverage "compulsory" for employers having only one employee is at variance with the language in A.B. 50, which the Committee had already passed, and which calls for "elective coverage".
- 4--In 617.070, sub-section 4, page 5, lines 41 and 42 maintaining the same position that is in A.B. 364, which they had stated they were averse to. We do not believe that the base should be raised from \$15,600.00 to \$24,000.00

Rowland Oakes, Associated General Contractors, stated that the raise of the base from \$15,600.00 to \$24,000.00 was necessary to keep from having to raise rates, since the rate of inflation had been so escalated, since the lower figure had been established. That they also supported the reduction for coverage from 2 employees to 1 employee, because a man working alone was in more danger if he was injured, and there was no one there to obtain help for him, and that many contractors prohibit a man ever working alone. He voiced his support of A.B. 440.

A.B. 440 (Cont.)

Jim Arnold, representing the Building and Trades Council, stated that they whole-heartedly supported A.B. 440, and considered it necessary and long over-due.

Since there was no one else who wished to speak on A.B. 440, Chairman Banner announced that this meeting would conclude the hearings on the N.I.C. bills.

Assemblyman Moody moved to adjourn the meeting. Assemblyman Benkovich seconded the motion.

Meeting adjourned at 3:55 P.M.

Respectfully submitted,

Betty Clugston
Acting Secretary

DATE: April 8, 1975

LABOR & MANAGEMENT COMMITTEE

7:17 AM - 2:35 PM
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LEGISLATION TO BE CONSIDERED: A.B. 364-368-419-425-403 (7 AM)

9:30 A.M.) HB 427-428-440-404-554 2:30 PM (continue)

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
John Reiser	Nevada Industrial Commission
J. Hollbrook Hawes	NEVADA AFL-CIO
JAMES M. ARNOLD	BTC AFL-CIO
Rowland Oakes	ABC
John Reiser	ABC
John Reiser	NIC
Bob [unclear]	NIC
Phil J. Bortolin	Appeals Office
John Reiser	ABC

AGAINST

NAME	REPRESENTING
Bob [unclear]	Kenneth Cooper Corp.
Bob Mc Coy	The Hebbens Co Inc
Raymond A. Robert	Federated Employers of Nev.
	Theater Las Vegas Plant the Com.

A.B.

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~~Attendant B~~

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SUMMARY--Makes various changes in Nevada Industrial Insurance Act and Nevada Occupational Diseases Act. Fiscal Note: No. (BDR 53-1536)

AN ACT relating to workmen's compensation; expanding the administrative powers of the Nevada industrial commission and appeals officer in conducting hearings; expanding discovery powers; permitting the presentation of evidence by affidavit; authorizing district court to tax costs of a frivolous appeal and attorney fees on the party bringing such appeal; prescribing qualifications, salary and term of office of an appeals officer; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 616 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this act.

Sec. 2. The appeals officer and the commission, in conducting hearings or other proceedings pursuant to the provisions of this chapter or regulations promulgated under this chapter may:

1. Issue subpoenas requiring the attendance of any witness or the production of books, accounts, papers, records and documents.
2. Administer oaths.
3. Certify to official acts.
4. Call and examine under oath any witness or party to a claim.
5. Maintain order.
6. Rule upon all questions arising during the course of a hearing or proceeding.
7. Permit discovery by deposition or interrogatories.
8. Initiate and hold conferences for the settlement or simplification of issues.
9. Dispose of procedural requests or similar matters.
10. Generally regulate and guide the course of a pending hearing or proceeding.

Sec. 3. At any time 10 or more days prior to a scheduled hearing before an appeals officer or the commission, a party shall

mail or deliver to the opposing party any affidavit which he proposes to introduce into evidence and notice to the effect that unless the opposing party, within 7 days after the mailing or delivery of such affidavit, mails or delivers to the proponent a request to cross-examine the affiant, his right to cross-examine the affiant is waived and the affidavit, if introduced into evidence, will have the same effect as if the affiant had given sworn testimony before the appeals officer or commission. If the opportunity to cross-examine an affiant is not given after the opposing party has made a request for such examination, the affidavit is subject to the provisions of NRS 233B.123 and Title 4 of NRS.

Sec. 4. If an appeal is taken to the district court from a final decision of the appeals officer and such appeal is found by the district court to be frivolous or brought without reasonable grounds, the district court may order costs and a reasonable attorney's fee to be paid by the party taking such appeal.

Sec. 5. NRS 616.218 is hereby amended to read as follows:

616.218 The Nevada Administrative Procedure Act, chapter 233B of NRS, [shall apply] applies to all proceedings or hearings under this chapter [.] , but its application is controlled by the specific provisions of this chapter and the commission may by regulation provide for specific procedures not inconsistent with chapter 233B of NRS or this chapter.

Sec. 6. NRS 616.230 is hereby amended to read as follows:

616.230 If any person [shall disobey] disobeys an order of the appeals officer or the commission or a subpoena issued by [it or by one of its] the commissioners, inspectors or examiners, or [shall refuse] either of them, or refuses to permit an inspection [, or shall; as a witness, refuse] , or as a witness, refuses to testify to any matter [regarding] for which he may be lawfully interrogated, then the district judge of the county in which the person resides,

on application of [a commissioner or an examiner or inspector appointed by] the appeals officer or the commission, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.

Sec. 7. NRS 616.235 is hereby amended to read as follows:

616.235 1. Each officer who serves a subpoena shall receive the same fees as a sheriff.

2. Each witness who appears in obedience to a subpoena before the appeals officer or commission [or an inspector or examiner shall] is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record.

3. Claims for witnesses' fees shall be audited and paid from the state treasury in the same manner as other expenses are audited and paid upon the presentation of proper vouchers approved by the appeals officer or any two commissioners.

4. [No] A witness subpoenaed at the instance of a party other than the appeals officer or commission [or an inspector or examiner shall be] is not entitled to compensation from the state treasury unless the commission [shall certify] certifies that his testimony was material to the matter investigated.

Sec. 8. NRS 616.240 is hereby amended to read as follows:

616.240 1. In an investigation, the commission may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law and Nevada Rules of Civil Procedure for taking depositions in civil actions in courts of record.

2. After the initiation of a claim under the provisions of this chapter or chapter 617 of NRS, in which a claimant or other party is entitled to a hearing on the merits, any party to the proceeding may, in the manner prescribed by law and the Nevada

Rules of Civil Procedure for taking written interrogatories and depositions in civil actions in courts of record:

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(a) Serve upon any other party written interrogatories to be answered by the party served; or

(b) Take the testimony of any person, including a party, by deposition upon oral examination.

Sec. 9. NRS 616.245 is hereby amended to read as follows:

616.245 1. A transcribed copy of the evidence and proceedings, or any specific part thereof, of any final hearing or investigation, made by a stenographer appointed by the appeals officer or the commission, being certified by that stenographer to be a true and correct transcript of the testimony in the final hearing or investigation, or of a particular witness, or of a specific part thereof, and carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on the final hearing or investigation so purporting to be taken and transcribed, may be received in evidence with the same effect as if the stenographer were present and testified to the facts so certified.

2. A copy of the transcript shall be furnished on demand to any party upon the payment of the fee [therefor as provided] required for transcripts in courts of record.

Sec. 10. NRS 616.355 is hereby amended to read as follows:

616.355 Any physician, having attended an employee within the provisions of this chapter [,] or chapter 617 of NRS, in a professional capacity, may be required to testify before the appeals officer or the commission when it [shall so direct.] so directs. Information gained by the attending physician or surgeon, while in attendance on the injured employee, [shall not be considered] is not a privileged communication if required by the appeals officer or the commission for a proper understanding of the case and a determination of the rights involved.

Sec. 11. NRS 616.535 is hereby amended to read as follows:

616.535 1. Any employee entitled to receive compensation under this chapter is required, if requested by the appeals officer or the commission, to submit himself for medical examination at a time and from time to time at a place reasonably convenient for the employee, and as may be provided by the [rules] regulations of the commission.

2. The request or order for the examination shall fix a time and place therefor, due regard being had to the convenience of the employee, [and] his physical condition and ability to attend at the time and place fixed.

3. The employee [shall be] is entitled to have a physician, provided and paid for by him, present at any such examination.

4. If the employee refuses to submit to any such examination, or obstructs the same, his right to compensation shall be suspended until the examination has taken place, and no compensation [shall be] is payable during or for account of such period.

5. Any physician who [shall make or be present] makes or is present at any such examination may be required to testify as to the result thereof.

Sec. 12. NRS 616.540 is hereby amended to read as follows:

616.540 1. If on a claim for compensation by an injured employee any medical question or the extent of disability of an injured employee [shall be] is in controversy, the appeals officer or the commission [shall] may refer the case to the medical board which serves the appropriate medical board district.

2. Such medical board shall, upon such reference, notify the injured employee of the time and place set for examination and investigation into such medical question or determination of the extent of disability. At the time set, such medical board shall make a full, complete and thorough examination of the injured employee, who may have a physician of his own choosing in attendance, and forthwith, in a joint report, if all of the medical board members are in agreement, [shall] submit their findings, conclusions and recommendations, concerning medical questions only, to the commission.

3. Should such medical board not be in agreement as to the findings, conclusions and recommendations, the members of such

medical board shall submit separate and individual reports, concerning medical questions only, to the appeals officer or the commission.

Sec. 13. NRS 616.542 is hereby amended to read as follows:

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616.542 1. The governor shall appoint an appeals officer to conduct hearings in contested claims for compensation under this chapter and chapter 617 of NRS. Such appeals officer shall [serve at the pleasure of the governor and shall] hold office for a term of 4 years from the date of his appointment and until his successor is appointed and has qualified. Such officer is entitled to receive an annual salary of not more than [\$20,000,] \$24,000 depending upon education, training and experience, to be paid from the state insurance fund.

2. Such appeals officer shall be familiar with the provisions of this chapter and chapter 617 of NRS and have 5 years' experience in adjudication of workmen's compensation claims or cases [.] or shall be an attorney licensed to practice law before all the courts of this state for a period of at least 2 years.

3. If the appeals officer determines that he has a personal interest or a conflict of interest, directly or indirectly, in any case which is before him, he shall disqualify himself from hearing such case and the governor shall appoint a special appeals officer who is vested with the same powers as the regular appeals officer would possess. The special appeals officer shall be paid at an hourly rate, based upon the appeals officer's salary, from money in the state insurance fund.

[3.] 4. The decision of the appeals officer [shall constitute a final decision under the Nevada Administrative Procedure Act] is the final administrative determination of a claim under this chapter or chapter 617 of NRS and the whole record , for the purposes of judicial review under [such act] the Nevada Administrative Procedure Act, shall be made up of all evidence taken at

the hearing, before the appeals officer, and any findings of fact and conclusions of law based thereon.

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Sec. 14. NRS 617.165 is hereby amended to read as follows:

617.165 The Nevada Administrative Procedure Act, chapter 233B of NRS, [shall apply] applies to all proceedings or hearings under this chapter [.] , but its application is controlled by the specific provisions of this chapter and the commission may by regulation provide for specific procedures not inconsistent with chapter 233B of NRS or this chapter.

Sec. 15. NRS 617.370 is hereby amended to read as follows:

617.370 1. Any employee claiming the right to receive compensation under this chapter may be required by the appeals officer or the commission to submit himself for medical examination at any time and from time to time at a place reasonably convenient for the employee.

2. If the employee refuses to submit to any such examination or obstructs the same, his right to have his claim for compensation considered if his claim is pending before the commission, or to receive any payments for compensation theretofore granted, shall be suspended during the period of such refusal or obstruction.

Sec. 16. NRS 616.225 is hereby repealed.

STATE BAR OF NEVADA

P.O. Box 2125

Reno, Nevada 89505

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October 24, 1974

TO: ALL MEMBERS OF THE STATE BAR OF NEVADA

SUBJECT: APPOINTMENT OF ATTORNEY-HEARING EXAMINERS BY UNITED STATES SOCIAL SECURITY ADMINISTRATION

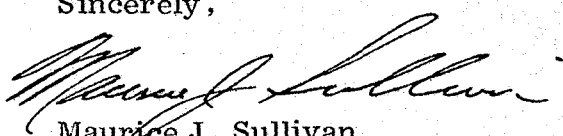
The United States Bureau of Hearings and Appeals of the Social Security Administration has announced it will appoint Hearing Examiners to conduct hearings and issue decisions under Title XVI of the Social Security Act. The Hearing Examiners will be appointed at the GS-13 grade level, salary \$21,816.00 to \$28,359.00.

To qualify, an attorney must have at least four years of legal experience. Positions are located in cities throughout the United States. If interested, write to:

Bureau of Hearings and Appeals, SSA
SSI Task Force (326 Webb)
P.O. Box 2761
Washington, D.C. 20013

Telephone: 703-235-8470.

Sincerely,



Maurice J. Sullivan
Executive Secretary

MJS/jc

Attachment 1



NORTHERN NEVADA PERSONNEL ASSOCIATION
P.O. Box 5864, Reno, Nevada 89503

March 24, 1975

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TO: ALL MEMBERS

RE: NEVADA LEGISLATIVE BULLETIN #4

The attached is a recap of all NIC Bills introduced through March 21, 1975 for review.

Robert W. McCoy,
Chairman
Government Affairs
Committee

A Local Chapter of American Society for Personnel Administration

PRESIDENT
James Skaggs
VICE PRESIDENT
Fred Raymond

SECRETARY
Carol Hogan
TREASURER
George Fisher

BOARD MEMBERS
Robert McQuaid
Harry Zuehlsdorff
Anita Thomas

RECAP OF ALL NIC BILLS INTRODUCED THROUGH

3/21/75

Bill No.	Bill Description	Effect	Cost Estimate	Recommended Action
AB-2	Increases Benefits	Would grant awards subjectively	Cost estimate varies from 22 to 30 million dollars for first year and similar each year thereafter	Oppose
AB-3	Increases Comp.	Pay Comp up to \$865.80/mo		Oppose
AB-4	Allow worker selection of medical service without regard to cost, travel or location	Florida doctors will be used in winter by workers		Oppose
AB-5	Bring prior awards and benefits up to current levels	Funds to come from NIC Account		Oppose
AB-23	Student teachers, may be considered employees of U.N. for NIC matters	Extend coverage for work incurred injuries	None	Support
AB-50	Permits sole proprietor to elect NIC coverage	Extend coverage to businessmen not now covered	None	Oppose, duplicates AB-44 of NIC package
AB-302	Re-defines Accident	None forseen	None	Neutral
AB-303	Deletes provisions for Commissioners to delegate authority to staff	Abolish claims level hearings and for the 3 commissioners to review each of 38,000 annual claims	Unknown	Oppose
AB-304	Provides NIC claimants comp. is reduced only by net recovery from 3rd party	Removes restriction of double recovery of industrial injury	Minor	Oppose - duplicates some provisions of NIC package Bill AB-372 which is worded better.
AB-314	Requires cash tips be considered wages for determining UC & NIC benefits. Require the employer to pay premium on money over which he has no control.	Allows workers to over report tips when they file claim	Some increase in cost to employers.	Oppose

Bill No.	Bill Description	Effect	Cost Estimate	Recommended Action
AB-329	Provides for NIC payment of attorney in any worker matter before NIC	Employers thru NIC's chargeback system would be financing lawsuits against themselves	Estimates at 20-30% increase in premium	Oppose
AB-337	Requires NIC to provide a free copy of everything in a file to the worker or his attorney	Since doctors and investigative reports are often confidential these reports would go to unauthorized people	Small, but NIC would have to hire 2 to 4 clerks to do all the photocopying	Oppose
AB-360 (pkg bill amended)	Allow NIC to enforce Fed. Mine Safety Law	Allow Mine Safety to be enforced by Nevada	See AB-409	Support
AB-364 (pkg bill)	Technical changes	1. Increase wage subject to premium from \$15,600 to \$24,000. 2. Eliminates injury sustained in sponsored athletic events	Small	Support
AB-365 (pkg bill)	Allow NIC to pay and charge back cost of first aid and transportation immediately following accident	Allow all workers to receive same benefits as provided by responsible employers	None	Support
AB-366 (pkg bill)	Removes sex distinction when establishing a pension	If legislature doesn't do it the courts eventually will	None	Support
AB-367 (pkg bill)	Removes present 100 month time limitation on duration of total temporary disability	Complys with Fed. guidelines as do many of the package bills	None (we've seen no claim go 100 mos. for T.T.D. in the 1000's we've handled)	Support
AB-368 (pkg bill)	Increases burial fee from \$650 to \$1,200.	A fact of inflation	Minimal	Support
AB-369 (pkg bill)	Clarifys T. T. D. as regards minimum duration of incapacity	A worker still must be disabled 5 days to collect T. T. D.	None	Support

Bill No.	Bill Description	Effect	Cost Estimate	Recommended Action
AB-370 (pkg bill)	Revises reporting time for occupational diseases.	Permits report or claim 90 days after diagnosis of an O. D.	None	Support
AB-371 (pkg bill)	Permits NIC Benefits for injured worker of uninsured Nev. Employer	Covers accident as well as occupational diseases	1% increase in premiums	Support
AB-372 (pkg bill)	Technical changes to act as regards 3rd party recovery	Strengthens act and is fair to all parties	None & may save some NIC funds in long run	Support
AB-382	Awards attorney fees & costs in litigation between private party & state agency	About the same as AB-329	20-30% increase in NIC premiums	Oppose
AB-387	Creates cost review board for health & care facilities	Allows a 9-man board to set fees for hospitals & nursing homes w/ NIC Chairman as one of the nine.	None, possible that some control of future costs possible	Neutral
AB-403 (pkg bill)	Technical changes to Nevada O. S. H. Law	More fully comply with Fed. Requirements	None	Neutral
AB-404 (pkg bill)	Removes office as type building NIC may own	Allows NIC to purchase & outfit a Las Vegas rehabilitation center	Minor	Support
AB-405 (pkg bill)	Changes requirement that silicosis exposure must have been within 2 years prior to claim	Since silicosis may take up to 15 years after exposure to develop, this is reasonable	Minor	Support
AB-409 (pkg bill)	Funds NIC Mining Inspector position See AB-360	Allows funding from General funds for M. E. S. A. enforcement	\$500,000 from general funds through 6/30/77	
AB-419 (pkg bill)	Requires employer report accident to NIC within 6 working days after knowledge of accident. Fed. guidelines ask that comp. be paid 14 days or sooner after injury	Failure to so report carries \$100 fine. Due to round the clock 7 day operation, reporting of <u>facts</u> not always possible.	\$100.00 fine per employer failure	Oppose

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Bill No.	Bill Description	Effect	Cost Estimate	Recommended Action
AB-425 (pkg bill)	Extends occupational disease coverage to some heart conditions	Must arise out of employment	3-4% increase in premiums	Support, as such coverage is essential to keep Fed. Government out of U-G. NIC
AB-426 (pkg bill)	Provides forfeiture of benefits obtained by false statements & penalty for employers failing to have NIC policy	A help in reducing fraud & help convince employers of need to establish NIC policy	None	Support
AB-427 (pkg bill)	Permit awards up to 12% in a lump sum	Save administrative cost as awards less than 12% cost as much to administer as the award itself	Some minimal savings to the employer through reduced NIC overhead	Support
AB-428 (pkg bill)	Increases compensation from 2/3 of average wage to 150% of average wage	Increases comp & pensions from \$59 per mo. to \$760 per mo. \$459	10.9% increase in present premiums	Oppose, too much of increase in a depressed year
AB-429 (pkg bill)	Extends NIC benefits to certain unpaid volunteer workers	Cover pink ladies in hospitals & church workers for 1st time at deemed wage of \$100 per mo. for premium purposes	Some cost to users of unpaid volunteer workers in return for protection from lawsuit if injured on job.	Support
AB-440 (pkg bill)	Permit partners & sole proprietors to elect NIC coverage	Cover a large number of small business people	None	Support
SB-20	Permit partners & sole proprietors to elect NIC coverage	Same as AB-440	None	Oppose, as is a duplicate Bill
SB-31	Increases benefits 20-35% to counter act inflation	Funded from general funds, for catch-up then NIC funds for future benefits	2-3% incoming year	Oppose
SB-90	Extends to investigation & narcotics division NIC Benefits allowed other peace officers	-	-	Neutral
SB-296	Allows Public workers choice of using sick leave to supplement NIC benefits up to normal salary levels	-	-	Support

Bill No.	Bill Description	Effect	Cost Estimate	Recommended Action
SB-330	Increases silicosis & disabled pensions	Uses general funds for catch up	-	Neutral
SB A-339	Prevents tortfeasor (wrong doer) from gaining financially from his actions before NIC	-	-	Support
AB-279	Formalizes present practice regarding U. C. & the penalty/interest fund	None, but imposes more control than without this bill	-	Support
AB-314	Requires cash tips be considered for determining benefits for UC & NIC. Require employer pay premium on money over which he has no control	Allow worker to over report tip when filing claim	Some increase to employers as creates heavier drawdown again appropriate fund.	Oppose
AB-385	Requires public employers provide UC benefits via the tax method	Add a 3% cost to state & local government as new employers pay at 3% for 4 years prior to going experience rated	3% of public payroll on subject payroll	Oppose, unless amended to allow either tax or reimbursement method.

R. W. McCoy
representing
Gibbens Co.

Attachment 2

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Re: A.B. 428 - Increase of Compensation Benefits

I am Bob McCoy of The Gibbens Co., Inc. and a registered lobbyist. We are in opposition to A.B.428 because of one simple but compelling reason: cost. We support all of the N.I.C. package except this bill and perhaps one other bill (A.B.419). Several bills we feel neutral about and have not therefore offered testimony pro or con. We do not support very many non package N.I.C. bills and feel our position is most consistent. We want Nevada workers to have the best benefits we can afford and here lies the problem.

Nevada employers are facing serious problems as are their workers due to the rather serious economic problems we now have.

The Assembly has before the Commerce Committee an unemployment package, Bill A.B.473, which carries a very substantial increase in employer costs. (Perhaps as high as 50%) It is labeled vital legislation by Speaker Ashworth.

N.I.C. in 1973 came before this Committee and requested a series of bills which were stated as necessary to keep the U.S. government from taking over workmen's compensation in Nevada. N.I.C. got every bill asked for and at an average of 18% increase in premium. However, some large employers were practically devastated by their increase. We have heard Mr. Alkire state that Kennecott experienced a 113% increase.

Let's look at some figures:

Kennecott Copper Corporation N.I.C. premiums:

1965--\$65,000-----1975--\$550,000,

an increase of 900% in 10 years. KCC is ex-medical so we can approximately double the N.I.C. premium to come up with their real cost. They have about 19 million dollars in annual Payroll today and pay 1 million dollars for N.I.C. and medical treatment resulting from industrial accidents. KCC also has serious EPA problems which, however it is ever settled, carries a very heavy cost.

Let's look at Anaconda, if you think we cite an isolated example:

Anaconda's premium had increased 700% in 6 years.

The Bill before us has about 11% increase on it. This is about \$5,500,000.

We feel Nevada is one of the states with better than average compliance with federal guide lines. The U.S. Congress has not yet passed any workmen's compensation bills. The guide lines we are told we have to meet are anticipatory. There is no assurance that anything we do will meet the as yet unpassed federal law. It probably will be passed in the fall of 1976.

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We believe the federals will allow a period of grace after passage of federal law for states to come into compliance. We also believe recognition will be granted to states with substantial compliance. Look at other federal programs to verify our statement. See the unemployment area where every state has been recognized by the U.S. Government even though there is immense variation from state to state.

We sincerely believe these are serious and substantial reasons for giving this bill a do not pass vote. We feel its the only responsible position to take this year, in view of other vital and expensive legislation for which employers must bite the bullet.

Perhaps I should end by stating that if no N.I.C. legislation is passed whatsoever this session on N.I.C. that Nevada employers face an average of 4 to 5% increase on July 1, 1975, due to inflations effect on medical benefits and that compensation will also increase because of the existing automatic trigger in present law.

We have not been consulted by any one regarding contents of the N.I.C. package. Therefore, we do not feel obligated to any group as regards support or opposition. We chose to support or oppose individual bills with in the package as each relates to the whole of Nevada's legislative needs this year. We ask that you give this bill a do not pass.

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7027863030 MGM TDRN RENO NV 100 04-04 0640P EST
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Attachment 3

Western Union Mailgram



JOHN REISER, CHAIRMAN OF NEVADA INDUSTRIAL
COMMISSION
STATE CAPITOL
CARSON CITY NV 89701

THE BOARD OF DIRECTORS OF THE GREATER RENO CHAMBER OF COMMERCE URGES
YOUR FAVORABLE CONSIDERATION OF THOSE BILLS COMMONLY REFERRED TO AS THE
LABOR MANAGEMENT NIC PACKAGE. WE BELIEVE THAT THESE BILLS WHICH WERE
RECOMMENDED BY THE GOVERNORS LABOR MANAGEMENT ADVISORY COMMITTEE COULD
BEST SERVE THE NEEDS OF THE STATE AND WE APPRECIATE YOUR CONSIDERATION.
NICK LUSICH, PRESIDENT
GREATER RENO CHAMBER OF COMMERCE
PO BOX 3499 RENO NV 89505

1852 EST

MGMRNOA RNO

COMPARATIVE INDUSTRIAL COMPENSATION PAYMENTS

From a survey by the American Mutual Insurance Alliance

Average Permanent Total Maximum Weekly Benefit

<u>State</u>	<u>December, 1970</u>	<u>January, 1974</u>	<u>Percentage Increase</u>
Nevada	\$66.46	\$105.63	58.9 %
California	52.00	119.00	129
Washington	81.00	121.38	49
Wyoming	34.61	79.38	129
Utah	47.00	89.33	90
Colorado	59.50	84.00	41

Average Temporary Total Maximum Weekly Benefit

Nevada	\$79.96	\$105.63	32
California	70.00	109.00	56
Washington	81.00	121.38	49
Wyoming	63.46	79.38	25
Utah	47.00	89.33	90
Colorado	59.50	84.00	41

Average Fatal Injury Benefit/ With Children

Nevada	\$38.65	\$105.63	173
California	70.00	119.00	70
Washington	63.00	121.38	90
Wyoming	34.62	51.16	48
Utah	65.00	89.33	37
Colorado	72.10	84.00	17

Note: A 10% across the board increase in Nevada NIC benefits would raise the average weekly benefit to \$116.19.

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
Steve Kelley	Nevada Retail Ass'n
Bill Parish	Nevada Independent Ins. Agents
G. WALTER DREW	EMPH SEC DEPT AB314
F. P. [unclear]	Nev. State AFL-CIO
[unclear]	
G. Holbrook [unclear]	AFL-CIO - Carson, Nev.

AGAINST

AGAINST

Bob Alkire

Kennecott Copper Corp.

NAME	REPRESENTING
Steve [unclear]	Nevada Bell AB 503
Pete Kelley	Nevada Retail Ass'n
Bill Parish	Nev. Independent Ins. Agents
CLYNT KROCK	Nev. Ass'n of Employers
Raymond [unclear]	Federated Employees of Nevada
Les Kofoed	Gaming Ind. Assn. of Nevada
C. A. [unclear]	Syo. RR. Assn.
Tom Young	Sierra Pacific Power
Saul Gemmill	Nevada Mining Assn., Inc.