

COMMERCE AND LABOR COMMITTEE

March 13, 1975

The meeting was called to order in Room #213 on March 13, 1975, at 1:05 p.m. Senator Echols was in the chair.

PRESENT: Senator Gene Echols
Senator Richard Blakemore
Senator William Raggio
Senator Margie Foote
Senator Warren Monroe
Senator Richard Bryan
Senator Gary Sheerin

OTHERS PRESENT: See Exhibit "A".

S.B. 79: Revises and expands definitions and remedies under deceptive trade practices law. Fiscal Note: No. (BDR 52-230).

The members of the committee discussed the second reprint of the bill at quite some length. After much discussion the following was decided.

Senator Monroe moved to hold the bill.
Senator Blakemore seconded the motion.
Senators Sheerin, Raggio, and Bryan were opposed. Senators Blakemore, Foote, Echols, and Monroe were for the motion.

A.B. 306: Specifies qualifications and authority of contract legal counsel for labor commissioners. Fiscal Note: No. (BDR 53-1019).

Assemblyman Bob Barengo testified in favor of the bill. Mr. Barengo said that from time to time the Labor Commission must contract with independent counsel to prosecute the claim. There has been a challenge to the authority of that contract counsel. The labor commissioner has the alternative to go the district attorneys in the counties or to refer to his contract counsel to prosecute the case. The D.A.'s offices are busy and the labor commissioner then turns to his contract counsel. This is when his authority was challenged. The bill does not provide that the attorney the labor commissioner hires under contract counsel shall have the power to prosecute under criminal laws, but merely to go forward with civil remedies. Senator Sheerin asked Mr. Barengo why there was no fiscal note. Mr. Barengo said the fiscal note is already in the budget. It is in existence now and does not change the staff, it just changes the power of the contract counsel. Mr. Stan Jones, Labor Commissioner, said the contract counsel gets \$7,000 per year. They have two, for a total of \$14,000 per year. Senator Raggio asked where the contract counsel was challenged. Mr. Barengo cited a particular case where it had been challenged. Line 4 should be "be" instead of "by." It was be in the original bill and just came out of printing as by. Mr. Barengo said they were assured there was no need for an amendment. At this time Senator Raggio moved to do pass and Senator Bryan seconded, but it was determined that there were others to testify against the bill.

Ernest Newton, Nevada Taxpayers Association, testified against A.B. 306. They see this bill as an effort to provide the prosecution of civil claims for wages or otherwise, that the district attorney's feel are of insufficient character, to justify them putting their efforts on them. The Labor Commissioner then having been rejected by his counsel, who is duty-bound under considerable pressure, to prosecute any claim

he feels is meretorious. The Labor Commissioner then, by this bill, would receive authority to go out and hire some attorney who will undertake the case whether or not he feels it is meretorious because he is employed to do that. Mr. Newton questioned the need to spend \$17,826 in the next bi-ennium to employ someone to do a task that is already imposed on the district attorney's in the state. Senator Raggio said that the prosecution of these labor claims was almost alien to the district attorney's offices and it was found that if they didn't prosecute these claims they could be removed from office. Senator Raggio discussed this with Mr. Newton briefly. Senator Raggio said this bill just sets forth clearly what was intended and that was to legalize and authorize exactly what was being done by the Labor Commissioner. He said he didn't know of any abuses and asked Mr. Newton if he did. Mr. Newton said he had not heard of any either. Senator Raggio and Mr. Newton discussed this matter at quite some length.

Mr. Raymond Bohart, Managing Director of Federated Employers of Nevada, testified next in opposition to this bill. They had questions about the language on lines 4 and 5 of the bill, "any such counsel must be an attorney admitted into practice of law in Nevada." Mr. Bohart said his experience in buying competent labor law expertise in Southern Nevada is that from an area of neutrality or management, it is extremely limited. Mr. Bohart said he would not like to see a bill passed which would limit, by the area of availability, the type of people the state labor commission could employ. Senator Bryan said he recollection was that unless a claim becomes substantially more complex, you are talking about essentially contract items. Mr. Bohart and Senator Bryan discussed this briefly. Mr. Bohart said that they are concerned about getting into this area of licensed counsel because these people are going to be concerned about prosecuting and proceeding with these cases on the basis of the retainer. The question was raised earlier about how they are paid. Mr. Stan Jones stood and said they are on an annual retainer and the contract can be cancelled by either party upon 30 day notice by either party. Senator Raggio said this contract counsel was not something new because they had been serving the state for at least two years and possibly four. Mr. Jones said it had been since 1969. He also outlined their duties which would be giving legal advice, giving information as to whether claim has legal merit, etc. Senator Raggio said he had had occasion to review some of the things they had done and had found them to be pretty objective. Mr. Bohart said that from what Senator Raggio had said, their area of expertise is not only in the area of court action, but also in the area of advice to the state labor commissioners, as was testified. Senator Raggio said he had not known them to get into the area of esoteric labor laws. Senator Raggio asked Mr. Barengo to give the reason for the bill. Mr. Barengo said for the simple reason that he has to be a member of the bar to file actions in court. Senator Bryan said they want someone who can go all the way in the action. Mr. Stan Jones said that was right and they didn't change contracts on a monthly basis.

Roland Oakes, Associated General Contractors, testified next. He had a question for the committee and asked if it wouldn't be more proper to have this attorney employed either through the district attorney's office or the attorney general's office, where he is performing the function of the district attorney's office. He said they could retain them and the labor department could pay them, because the district attorney is an elected official and the labor commissioner is appointed. He said most of the law enforcement agencies at that level of the state are elected. Senator Monroe said if the district attorney didn't want to prosecute these cases he wouldn't want the deputy district attorney doing it either. Mr. Oakes said it wouldn't be a deputy district attorney, he would be someone selected by the district attorney. Senator Monroe asked what the difference was between doing that and hiring contract counsel. Mr. Oakes said he just thought that a little layer of seperation between the labor commissioner and the attorney would be provided that would permit the attorney to be a little more objective. Senator Raggio asked Mr. Oakes if he felt there had been some serious abuses of

of this. Mr. Oakes said the present labor commissioner has been very aggressive in prosecuting these claims, which he felt was necessary. Senator Raggio asked Mr. Oakes if he was aware that this had been going on since 1969 and Mr. Oakes said no. Senator Raggio said this was just putting in the statutory language what they thought they had done before.

Senator Monroe moved do pass.

Senator Raggio seconded the motion.

The vote was unanimous with all members present and voting.

A.B. 302: Redefines "accident" under Nevada Industrial Insurance Act. Fiscal Note:
No. (BDR-53-1007).

The bill will be held until the 18th of March to be heard with the other NIC bills.

SB 283 } Amendment 5473: A copy is attached as part of the record.

Senator Echols explained the amendment to the committee, and there was a brief discussion.

Senator Foote moved to approve Amendment 5473.

Senator Blakemore seconded the motion.


The vote was unanimous with all members present and voting.

There being no further business, the meeting adjourned at 2:10 p.m.

Respectfully submitted:

Kristine Zohner, Secretary

APPROVED BY:



Senator Gene Echols, Chairman

ROOM # 213
 DAY Thursday DATE March 13, 1975

NAME ORGANIZATION ADDRESS PHONE NUMBER

*NOTE: PLEASE PRINT ALL THE INFORMATION CLEARLY.

Stan Jones	Nevada State Labor Commission		4850
Gino DEL CARLO	N. B. A.	RENO NV.	322-6996
JOHN MADOLE	Assoc. GEN. CONTRACTORS	RENO	329-6116
Tom Young	SPI Co.		789-4225
CLINT KNOLL	Nev. Ass'n of Eng'rs		
FRED DAVIS	NEV CHAMBER OF COMMERCE ASSN		
	WINE & SPIRITS WHOLESALER		
Joe Midmore	- various chain drug stores		747-4986
Ray Bohart			
Ernest Newton			

A. B. 306

**ASSEMBLY BILL NO. 306—ASSEMBLYMEN BARENGO
AND BANNER**

FEBRUARY 19, 1975

Referred to Committee on Labor and Management

SUMMARY—Specifies qualifications and authority of contract legal counsel for labor commissioner. Fiscal Note: No. (BDR 53-1019)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to the labor commissioner; requiring admission to practice in Nevada as qualification for legal counsel under contract to the commissioner; and defining the scope of such counsel's authority.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 607.065 is hereby amended to read as follows:
 2 607.065 1. The labor commissioner may provide for contract serv-
 3 ices by legal counsel for assistance in administering the labor and indus-
 4 trial relations laws of this state. *Any such counsel must by an attorney*
 5 *admitted to practice law in Nevada.*
 6 2. *In the prosecution of all claims and actions referred to him by the*
 7 *labor commissioner, such counsel has the same power as that vested in the*
 8 *district attorneys of the several counties to enforce the labor and industrial*
 9 *relations laws of this state except that such counsel does not have the*
 10 *authority to prosecute for criminal violations of such laws.*

Amendments to ~~Assembly~~ / Senate 230

Bill / ~~XXXXXXXXXXXX~~ No. 283 (BDR 54-1143)

Proposed by Senator Close

THIRD READING

Amendment No 5473



Amend the bill as a whole, by inserting a new section, following section 13, to be designated as section 14, to read:

"Sec. 14. NRS 623.200 is hereby amended to read as follows:

623.200 1. Upon complying with the requirements set forth in NRS 623.190 and before receiving a certificate or being registered, the applicant shall satisfactorily pass an examination in such technical and professional courses as may be established by the board, unless the applicant be entitled to such certificate

and registration without examination as provided in this chapter.

2. The board shall give examinations pursuant to NRS 623.190 and section 2 of this act at least once each year, unless no applications for examinations are pending with the board."

Amend the bill as a whole by renumbering sections 14 through 22 as sections 15 through 23, respectively.