

MINUTES

LABOR AND MANAGEMENT COMMITTEE
FEBRUARY 1, 1977
3:00 pm

Members Present: Chairman Banner
Mr. Goodman
Mr. Bennett
Mr. Robinson
Mr. Weise
Mr. Dreyer

Members Excused: Mrs. Gomes

Guests Present: See attached Guest Lists

Chairman Banner called the meeting to order at 3:07 p.m. He then gave background information on A.B. 115 and A.B. 116, both of which he sponsored.

ASSEMBLY BILL 115

This bill concerns disabled people who receive permanent partial disability compensation from the N.I.C. Chairman Banner has several objections to the law as it is now written and the bill represents his recommendations to improve it. He disagrees with the synonymous use of the terms "disability" and "impairment" in the present statute. Chairman Banner stated that the amount of disability should be decided by the Commission rather than their physician. The N.I.C doctor uses the AMA Guides to Medical Evaluation to help him decide on the degree of disability; however, it is not being used properly. As provided in the proposed bill, there are factors, not used at this time, that should be taken into consideration in determining the disability, such as the occupation of the injured person, the nature of the injury, his age, etc. Chairman Banner also proposes raising the award which is subject to being paid in a lump sum from a maximum of 12% disability to 20%. He also proposes extending the payment of benefits past age 65, through the life of the injured workman, with any remaining benefits to go to his beneficiary.

Mr. Robinson stated that the proposed bill does not deal with rehabilitation, and asked if the payments continue even if the person returns to work in another profession. Chairman Banner said that under his bill the payments would continue. Mr. Robinson and Mr. Bennett suggested adding definitions of terms, such as "disability" and "impairment" to the bill for clarification; however, Chairman Banner said he wanted to get entirely away from the term "impairment."

Mr. Weise suggested some standard for determining ^{Assembly} impairment and then considering various factors such as occupation to determine the degree of disability. Chairman Banner said the disability determination must be made by the Commission itself using the factors outlined in his bill.

Mr. John W. Vollmayer, 1600 Ferris Lane, Reno, owner of AAMCO Transmission in Reno, testified in favor of A.B. 115, giving some details of his own experiences with the N.I.C.

John R. Reiser, Chairman of the N.I.C., testified in opposition to A.B. 115. He first read into the record a portion of the N.I.C. Study, Bulletin No. 104, dated December 1972, at pages 8-9 of Exhibit A, discussing the problems with making benefits retroactive, as called for in A.B. 115. Mr. Reiser then discussed the Fiscal Note for A.B. 115, prepared by the N.I.C., and attached hereto as Exhibit "A", stating that the "other factors" alone would add 43.1% to the compensation costs. The retroactive aspect of the bill would create an additional liability of \$32 million. It would be necessary to go back and adjudicate all claims between 1973 and 1977. Mr. Banner questioned whether any of the figures cited in the Fiscal Note were accurate.

Mr. Weise asked if there were some reason there could not be a top limit across the board for each disability and then adjust it downward if the disability is less than 100%. Mr. Reiser stated that impairment is an objectively determined decision, but that it is a subjective determination as to how much the worker is impaired in his job and that is what decides the amount of disability. He also testified that rehabilitation should be substituted for awards for disability; that workers should be encouraged to return to work.

Warren W. Goedert, of the Reno law firm of Rice & Goedert, who also represented the Nevada Trial Lawyers Association, testified in favor of A.B. 115. Mr. Goedert asserted that all the figures put forth by the N.I.C. are just guesses; also, he resents derogatory comments about payments to lawyers who prosecute claims on behalf of injured workmen. If the N.I.C. would give the workman the benefits to which he was entitled, it would not be necessary for them to hire lawyers. People hire lawyers because they are frustrated with the system; also some of the issues involved are very technical and not easily understood by laymen. His experience is that the treating physician does not want to commit himself so the case comes to the N.I.C. physician and he is extremely conservative. Mr. Goedert feels the consideration of "other factors" is the fairest way to handle the determination of disability. Not all people are the same and we need a determination as to how the workman is affected by his injury. He stated the Commission does not want to put people on permanent disability even if they deserve it because of the expense. Instead, they say the worker can be rehabilitated; however, the rehabilitation program is not working well. They try to force people into menial jobs.

Mr. Weise questioned the equity to the claimant if a larger award were eaten up in attorney's fees; does using an attorney actually provide the workman with an increase in the net amount of his benefit? Mr. Goedert, in turn, questioned the figures set forth by the N.I.C. for certain aspects of the proposed bill. He stated the "other factors" were used prior to 1973. When they were deleted, why was there not a corresponding decrease in premiums,

and why then would there now be such a huge increase with this proposed bill.

Robbins Cahill, representing the Nevada Resort Association, testified against the bill. He stated that the companies he represents have consistently gone along with past legislation to benefit the workers. Each time they have been told that the particular bill would not cause much of an increase in premiums. However, he polled five companies, and each one experienced a marked increase (generally more than double) from 1972 to 1976. Most of this, he stated, was not related to additional employees as three of the companies had no increase in physical facilities. The figures cited would, however, include inflation. Mr. Cahill offered to find out how many additional employees were involved. His people feel the bill will be costly.

Mr. Robinson asked if he had any information about the reduction of accidents per thousand employees due to OSHA regulations. Mr. Weise said Kennecott has reduced their accident rate. Ralph N. Orgill of Kennecott Copper Corp. testified that their accident rate had been improved with no corresponding decrease in their experience rating. However, Mr. Reiser stated that, while Kennecott may have improved on their accident rate per thousand, they have had an increase in the severity of accidents with more deaths. Neither Mr. Orgill nor Mr. Reiser were sure whether the losses at Kennecott were greater than the premiums. However, Mr. Reiser stated that N.I.C.'s reserves were surprisingly accurate.

Marilyn Boussaid, 1001 Harvard Way, Reno, testified on behalf of A.B. 115, in relation to her husband's injury. She read a statement which is attached as Exhibit "B". After a brief discussion of the circumstances surrounding her husband's case, Mr. Reiser said he would meet with them after the hearing to see what could be done.

ASSEMBLY BILL 116

Chairman Banner stated that this bill deals with a group of people who are on the N.I.C. rolls and are receiving pensions, either as workers permanently and totally disabled or as widows. The average age for these is 69.9 and Chairman Banner wants to help these people to get increased benefits. He stated that next year there will be at least 27 people killed on the job, 77 will become permanently and totally disabled, and about 9,000 will be injured in such a way as to receive some workmen's compensation. Mr. Banner referred to the N.I.C. Annual Report, showing a considerable surplus, which could be used to pay for A.B. 116. He stated N.I.C. had a gain in two years of \$43 million and he questioned the reserving of some of the N.I.C. reserves.

Mr. Reiser testified as to the Fiscal Note for A.B. 116 (attached hereto as Exhibit "C"), which indicates that some of the present beneficiaries would lose certain benefits and that an increase in benefits for others would create an additional liability of approximately \$4 million, for which no appropriation is provided.

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Mr. Banner suggested applying a \$50/month increase per person across the board to see what the cost will be. He also stated he is preparing an amendment to A.B. 116 to that effect. It was agreed, at the suggestion of Mr. Goodman, that further discussion of A.B. 116 be deferred until the amendment has been prepared.

Upon motion by Mr. Goodman, seconded by Mr. Bennett and unanimously passed, Chairman Banner adjourned the meeting at 4:53 p.m.

Respectfully submitted,

Sandra Campbell
Sandra Campbell, Assembly Attache

I S C A L N O T E

BDR 63-498
A.B. 115
S.B. _____

Date Transmitted January 5, 1977

STATE AGENCY ESTIMATES Date Prepared January 5, 1977

Agency Submitting Nevada Industrial Commission

Revenue and/or Expense Items	Fiscal Note 1976-77	Fiscal Note 1977-78	Fiscal Note 1978-79	Continuing
FY 1978 and Subsequent Claims	_____	<u>14,376,000</u>	<u>16,920,000</u>	<u>17.7% increase annually</u>
Retroactive application to FY 1974, 1975, 1976 and 1977 claims	_____	<u>35,468,000</u>	_____	_____
Total	_____	<u>49,844,000</u>	<u>16,920,000</u>	<u>17.7% annual increase</u>

Explanation (Use Continuation Sheets If Required)

There are a number of elements in this bill which will add to the annual cost of permanent partial disability compensation.

Those which may be priced objectively are:

- The addition of "other factors" as a compensable element of compensation.
- The extension of the period of compensation from age 65 (or 5 years) to life time of claimant.
- Entitlement of dependents to lump sum settlement in case of death of claimant from nonindustrial causes within 5 years.

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Local Government Impact YES NO
(Attach Explanation)

Signature John R. Reiser
Title Chairman

DEPARTMENT OF ADMINISTRATION COMMENTS

Date _____

Signature _____
Title _____

LOCAL GOVERNMENT FISCAL IMPACT
(Legislative Counsel Bureau Use Only)

Date _____

"A"

Signature _____
Title _____

1. Retroactive application of bill to fiscal year 1974 and subsequent year claims.
Additional administrative costs arising out of litigation, extension of period for which benefits are payable, and the anticipated stretch-out in the award process.

Re 1
The "other factors" provision of the bill will raise compensation costs by 43.1%. Additional cost on fiscal year 1978 claims would amount to \$7,939,000.

Re 2
The extension of the benefit period from age 65, or 5 years, to life of the claimant represents an additional cost of 18.9% - \$4,982,000 on fiscal year 1978.

Re 3
Payment of benefits to dependents upon decease of the claimant within 5 years would add \$148,000 to cost of FY 1978 claims.

Re 4
The retroactive application of the provisions of this bill to fiscal 1974, 1975, 1976 and 1977 would create an immediate liability of \$32,244,000.

Re 5
The additional cost of administration of fiscal 1978 claims would amount to at least 10 percent of the added benefit cost - \$1,307,000.

The retroactive application of the bill to FY 1974-1977 claims would add an administrative cost equal to at least 10 percent of the added liability - \$3,224,000.

In each subsequent fiscal year, the added cost would amount to 117.7 percent of the previous year's additional cost.

Local Government Impact

The cost of worker's compensation claims incurred by local governmental entities would increase by approximately \$257,647 in fiscal year 1978. The cost would be increased at a 17.7% annual rate thereafter.

The cost of worker's compensation claims incurred by school districts and the University of Nevada system would increase by \$179,158 in fiscal year 1978 and increase at a 17.7% annual rate thereafter.

Ladies and Gentlemen, I want to thank you for giving me this opportunity to speak to you. I'm not accustomed to making speeches. I was told that in order to lobby effectively, I should speak about the laws with authority, and not about an individual case. But I am most familiar with our own situation, and I'm sure there are thousands like us in Nevada. I am speaking today for my husband, who does not speak English well enough to address you, but his problem concerns both of us and our family.

My name is Marilyn Bousaid, and I will be talking about my husband's accident.

An accident can happen to anyone. It can happen the first day of work, or after ten or twenty years. The worst is for someone hurt early in a job. How can someone hurt in their first month of work, for example, who isn't entitled to Social Security, unemployment, welfare, or any other help, and who has a family to support, expect to survive on \$450 a month for the two or three years that he is under Doctor's care, when he was making over \$1000 a month before?

We were living in Incline where my husband was earning between \$900 and \$1300 a month. When he got hurt on the job, we had to wait 6 months for the NIC to accept the claim. During this time, we had no income. We had to move to Sparks, where we rented the cheapest place we could find. There was no refrigerator and no bed to sleep on. We lost our car because we couldn't keep up the payments or the insurance. The baby got sick with the flu from the draft from broken windows, and spent two weeks in the hospital on intravenous. I think this ended up costing the government more than they would have spent on us otherwise. Nobody came out ahead but the hospital. We were lucky at any rate to have the SAMI card then, because a worker can't afford to pay for private insurance.

But when you finally start receiving compensation, however little, from NIC, then if one of the family gets sick, you can't even afford to see a doctor or dentist. You can't get a SAMI card any more, or go to the clinic, because you are considered to have too much income if you have over \$200 or \$300 a month. How can you afford medical or dental care on \$450 a month?

When you are ready to settle with NIC, then they don't care about the salary you've lost over the last two or three years, or the suffering you've been through. They don't consider your problems of earning a living in the future, or the effects of inflation. How is it possible for a person who is totally disabled for life to live on 50% of their former salary, as it is set out in Paragraph 4 of A.B. 115? For someone who was making \$1000 at the time of his injury, this would mean living on \$500 a month for the rest of his life, and never being able to work. People who are temporarily disabled due to an accident which took place after July 1, 1975, may receive up to over \$700 a month; people temporarily disabled after July 1, 1976, may receive up to over \$800 a month. Yet a permanently disabled person, totally disabled, may receive only about \$500 based on the same salary. ~~It~~ In just 5 or 10 years, with inflation as it is, what will \$500 be worth? With this little income, you can never hope to be able to afford a home, you are forced to pay rent for the rest of your life, while rent keeps going up, and your fixed income actually is decreasing, with respect to the increasing cost of living.

"B"

All this is not to mention a person who might be less than 100% permanently disabled, who would receive a lot less, and still not be entitled to unemployment, social security, or anything else, and who might have enormous difficulty finding a suitable job, if he couldn't return to his former employment.

This situation is especially difficult for the manual worker. A person who can do a sedentary job is fortunate. But the manual worker, who runs the risk of accidents so much more, is in a terrible spot when he is physically impaired. What can he do to earn a living with an injured back? How can a skilled worker, who has spent 15 or 20 years learning a profession, start over with a new, non-physical trade? How long would it take to become skilled again?

A person who can no longer do physical work has problems with the Rehabilitation department. They don't know what to do with you, they send you from one section to another, and tell you your case is too difficult because you don't have a high school diploma and you don't speak English well enough. They consider you a hopeless case and give up. Yet in spite of these things my husband had a good and respectable profession, and earned a decent living before.

The Rehabilitation department doesn't take your problem seriously. We asked time and again for help. We told them my husband had such pain that it is difficult for him even to turn his head while driving. What did one person at Rehab answer to this? Without mentioning her name: she told my husband to put mirrors all around the car, and forget his pain, that it was all psychological. This is not particularly amusing when you have had a ruptured disc surgically removed. For every suggestion we made, every idea we had for rehabilitation, they found a reason why it wouldn't work.

We know there are difficult cases, but people who work in rehabilitation should at least have an understanding attitude. We should not have to beg for help. What is there to hope for, if even they consider us hopeless? It's bad enough to be in pain, addicted to medication, in debt, and desperately frustrated, but it's worse to have no hope.

What can you do if you are disabled for life, and you reach retirement age? If you haven't been able to work, you can't get Social Security, and NIC cuts you off. Then how do you pay your rent? How do you eat if you haven't had enough income to save any money?

If at least the NIC could pay a lump sum for the disabled worker, then maybe he could have some hope of being able to pay for a home and a car, then he and his family would be able to survive on very little income just to buy food.

The State is losing money in wastefulness that could be put to good use helping people. Why do we have to put the government to the expense of processing disability forms every two weeks, when nothing has changed, and the injured person doesn't even see the doctor that often? And yet we have been filling out these forms, every two weeks, for nearly two years, barely surviving on what compensation my husband receives. If it weren't for the help we have received from my mother, we would have been forced to ask for charity. But what about people like us who have no one to help them?

Thank you for listening to me. I hope you will try to change this situation for the disabled people who are counting on your help.

Nevada residents would be cut off from the 20 percent supplemental payment which they are receiving under the existing statute. This would affect 129 widows and 60 children.

The bill creates an additional liability of approximately \$3,902,000 for which no appropriation is provided.