MINUTES

LABOR AND MANAGEMENT COMMITTEE
FEBRUARY 10, 1977

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

Guests Present: See attached lists

Chairman Banner called the meeting to order at 3:08 p.m. and explained that if there was not enough time to complete today's hearing on the scheduled bills, the hearing would be continued on Tuesday, February 15. The bills under consideration are as follows:

A.B. 176: Revises guidelines for determining suitability of work under unemployment compensation law.

A.B. 177: Changes provision on qualification of person for unemployment compensation benefits because of his work-related misconduct.

A.B. 178: Modifies eligibility requirements for unemployment compensation.

A.B. 179: Prohibits payment of unemployment compensation benefits to persons admitting to or convicted or certain work-related crimes.

A.B. 180: Changes provison on disqualification of person for unemployment compensation benefits because of his leaving work without good cause.

A.B. 181: Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits.

Chairman Banner then called upon LARRY McCRACKEN of the Employment Security Department to discuss the bills. Mr. McCracken testified that all of these bills have been presented to the Employment Security Advisory Council on a number of occasions and each time have been rejected. He stated there are some good aspects to the bills, but some are out of conformity with current regulations, as delineated in his notes which are attached hereto and marked Exhibit "A". In particular, A.B. 176 presents an administration problem in trying to define "near the locality." Mr. Weise suggested using "within 10 miles" or some similar terminology. Mr. McCracken stated that under A.B. 178, a claimant would be disqualified from benefits as soon as he became injured, rather than when he is unable or refuses to take a job due to the disability.

With respect to A.B. 181, Mr. McCracken stated the Department has no administrative problem with the one-week waiting period, but questions whether claimants should be self-insured to this extent.

Mr. Weise explained to the Committee that he had requested that all these bills be considered because, in spite of the drastic action taken by the previous Legislature, the employment security fund still lost $1 million last year. There are some areas in which people are concerned about allowing benefits, such as crime situations, and he suggested people should be able to handle a one-week waiting period. However, Mr. McCracken stated that in 1975, there was $20 million more paid out than contributions received. The legislation passed in 1975 came into full effect in 1976, and at that time, the loss to the fund was only $1 million. He does not believe they will ever be equal; and the Department is very pleased by the current situation.

Mr. Robinson questioned whether the fund's solvency could be improved and asked if there was any legislation to improve it. Mr. McCracken stated there is new legislation to increase the federal unemployment tax by about 100%.

ERNEST NEWTON, representing the Nevada Taxpayers Association, testified in favor of the bills, making the following comments:

A.B. 176: He agrees with Mr. McCracken that Paragraph 3(b) is a non-conformity and should be deleted, but this would not change the thrust of the bill. He feels a person should be required to take whatever is available even if it is not comparable to his previous job. He stated that the Department does not stand for refusals very long; that after 4-5 weeks, they insist that the claimant take a different type job. On questioning by Mr. Banner, Mr. Newton said under Alabama law, a claimant must take any job offered after 6 weeks.

A.B. 177: The thrust of the bill is the addition of the word "Remaining". The question is whether a second disqualification in a benefit year will be an addition to the first period or the two will run concurrently or consecutively. This bill provides that they will run consecutively. Also under current law, a claimant cannot lose more than one-half of his benefit but under A.B. 177, he could.

A.B. 178: Mr. Newton agreed with Mr. McCracken that under federal regulations there will be little "uncovered" employment but the bill would improve the current law. The Employment Security Department will pay benefits to unemployed government workers and the employer will reimburse the Department for the amount. The estimated tax rate is very favorable for the employer under that arrangement. Mr. Robinson asked what the voluntary quit rate was for civil service and Mr. Newton stated that even the most extravagant estimate is no higher than 5%. Mr. Banner stated that in Clark County it is 10-15%, but Mr. Newton said they have one of the highest rates.

A.B. 179: This would completely deny benefits to persons who admitted to or were convicted of certain work-related crimes. It would provide also that payment of benefits would be suspended during the time an employee was under indictment or charged with the commission of a crime. Mr. Goodman asked what happens if the person is acquitted, and Mr. Newton said he would get all monies due him. Mr. Robinson asked if the Employment Security Department projection for an annual cost of $5,000.00 seemed reasonable and Mr. Newton agreed it did. He stated there are many persons fired for petty crimes in which the employer does not prosecute and benefits are paid as a matter of course.

A.B. 180: The main point of this bill is the insertion of the word "remaining" on line 18. The bill would apply to persons who do not give notice to their employers that they are quitting and their reasons for doing so. He assumes that this causes no real change in benefit payments but does relieve the employer of the necessity for filing a report. Mr. Goodman suggested that the bill might be unnecessary because the burden of proof to establish that he quit for good cause is already on the employee.

A.B. 181: Mr. Banner asked how much money this bill would save and Mr. Newton said $1.5 million per year. This would provide an incentive for workers to immediately find another job. He pointed out that this did not reduce the total benefit entitlement, it just tacked it onto the end of the period. However, by that time, many claimants would be back to work. Mr. Weise suggested making an exception to those workers who are unemployed due to a catastrophic event which forces people out of work.

GEORGE FOSTER of the Plumbers and Steamfitters Local 350 and a member of the Employment Security Advisory Council, stated that the Council had considered all these bills before and had rejected them. He felt they would impose hardships on the people he represents, and made the following comments on each:

A.B. 176: If this bill were passed, what incentive would there be to going through a 5-year apprenticeship and then being forced to work at another type of work. Labor would certainly object to this. Mr. Robinson asked if it were against union rules for a carpenter or plumber to work as a helper. Mr. Foster said that in his union, this was encouraged if there was a shortage of jobs, and stated that a helper does earn more than he would on unemployment. Mr. Weise asked if skilled craftsmen were employed most of the time anyway. However, Mr. Foster said that with the current depression in the construction industry that was not the case. Mr. Weise asked how many of his people went on unemployment under the existing laws or volunteered to take something else. Mr. Foster said that in 1974 the work force was around 500 and dropped to 300 the following year, because people had to leave the area to find work. They go where the work is, but don't go from the building trades into service industries. Mr. Weise stated that he was only concerned with

abuses. Mr. Robinson suggested using an hourly rate differential such as 50¢ per hour rather than job classification. However, Mr. Foster said, that due to the differences in wages for the same job classification and at different job sites, this would be difficult to work out. His union already encourages people to take whatever is available and penalizes those who refuse jobs too many times.

A.B. 177, 178, 179 and 180: Mr. Foster felt these entailed additional penalties against the worker which are unnecessary. Mr. Weise asked what the current ratio of union workers to the total claimant population was. Robert Long of the Employment Security Department stated that, in the southern part of the state, it was about 35% and in the northern part about 28%. He also stated that the Department does not refer union claimants to non-union jobs. In A.B. 179, Mr. Foster objected to the change of "grand larceny" to "larceny." Also, that there is no penalty to the employer if he is wrong in accusing the employee of a crime.

A.B. 181: Eliminating the one-week waiting period would be going backwards, when other states are going the other way. Would be fine if there is lots of work but that is not always the case. Nevada eliminated the waiting period 25 years ago.

JAMES RICE, representing Teamsters Local 631, testified in opposition to all the bills. His people want to work and he felt there was sufficient legislation at this time. Problem is how to create more work.

MICHAEL PISANIELLO, Assistant Secretary to the Culinary Workers Local 226 in Las Vegas, and who also serves on the Employment Security Advisory Council, testified in opposition to the bills. He stated that the employer rate structure in Nevada is the lowest of 27 states.

FRANK DARR, of Southern Nevada Home Builders, was generally in favor of the bills but delineated areas of confusion:

A.B. 176: "Locality" hard to define. He also felt the wording of Paragraphs 3(a) and (c) should be clarified.

A.B. 179: This needs clarification in the area of withholding payments pending the outcome of criminal action. Is the employer liable in following this rule? Mr. Banner suggested that reading the Java decision might clear this up.

A.B. 180: He had two questions: What constitutes "good" cause for leaving employment and what happens if the employer does not submit his report within 10 days?

JACK KENNEY, of Southern Nevada Home Builders, testified in favor of the bills and presented an article from the Wall Street Journal for consideration by the Committee, which article is attached hereto and marked Exhibit "B". He also submitted for consideration an amendment

to A.B. 180 providing for an additional paragraph: "3. A person who leaves or quits a job seeking better employment is not eligible for any benefit unless the person (claimant) remains on the new job for a period of time which is of sufficient duration to create a new base period employer." Mr. Robinson stated that he does not see how it will apply to the trades because they do not generally leave jobs for more pay - just to find work.

Mr. Banner adjourned the meeting at 4:57 p.m., stating that the hearing on these bills would be resumed on Tuesday, February 15, at 3 p.m.

Respectfully submitted,

Sandra Campbell

Sandra Campbell, Assembly Attache

LABOR AND MANAGEMENT COMMITTEE

PLEASE REGISTER IF YOU WISH TO BE RECOGNIZED

AB 176, 177, 178, 179 180, 181 — AGENDA

2-10-77 — DATE

NAME (please print)	REPRESENTING	BILL NUMBER	CHECK FOR	CHECK AGAINST
GEORGE FOSTER	PLUMBERS LOCAL #350	176 — 181	✓	✓
[illegible] DARR	So Nev Homebuilders	176-181	✓	✓
Louis Paley	Nev State AFL-CIO	176-181		✓
James R Rice	Teamsters #631	176-181		✓
J. R. Ivans	ESD	176-181		
Larry McJunkin	ESD	176-181		
E. L. Newton	NTA	176-181	✓	
[illegible]	Culinary Workers 226	176-181		✓
JACK KENNEY	So Nev Home Bldrs	180	✓ REQUESTED	

Date: 2-10-77

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST (Non-Speakers)

NAME (Please print)	REPRESENTING
Tom Young	Sierra Power
C. Holbrook Hawes	Nev. State AFL-CIO
Stan Warren	Nev Bell
W. A. Ebeler	The Gibbens Co.
Rich Bissett	Nev State Empl Sec Dept
Leon. Henriksen	Teamsters
Edward Greer	Clark Co Sch Dist.
Bryan Armstrong	LV Sun
DARYL E. CAPURRO	NEVADA MOTOR TRANSPORT ASSN. NEVADA FRANCHISED AUTO DEALERS ASSN.
Robert F Guinn	
Walter Warren	Self
Gordon Cronenberger	Dept. of Human Resources
Ted Kozloski	Gaming Ind. Assn - Reno
R E Cahill	Nevada Resort Assn. LV
E J Bowers	Gaming Ind. Assoc.
Jerry Higgins	Sparks Hosp, Inc.
FRED DAVIS	GREAT RENO COC - NCAA
Tom Case	Central Tele
GINO DEL CARLO	F.N.B. OF NV.
JACK KENNEY	So NEVADA HOME BLDRS
CHARLES V. MALONE	SELF

Testimony for

Committee on Labor and Management
February 10, 1977

Prepared by
Nevada Employment Security Department

A general note on Assembly Bills 176 to 181. These recommendations were presented to the Employment Security Council and after consideration, the Council decided not to include them in their own legislative package.

Exhibit "A"

Nevada currently is 13th in the nation in the number of benefit denials due to a claimant's refusal of suitable work.

The Nevada Employment Security Department is currently addressing itself to the area of "suitability of work." The ES-UI pilot project (federally funded through the Department of Labor) provides claimants with concentrated service. Only in this setting of concentrated service may an issue such as "suitability of work" be given the necessary staff time needed for resolution.

The deletion of section 3(b), as proposed, is out of conformity with Federal statute, specifically Section 3304(a)(5) of the Internal Revenue Code of 1954. This section must be included if Nevada employers are to continue to credit their state contributions against the Federal Unemployment Tax.

Defining suitable work as a job offering wages equal to the claimant's WBA would mean an hourly wage of $2.35 (gross wages at that) and this is for claimants with the maximum WBA.

Section 2d is vague; what is meant by "near the locality"?

Under the present law, the claimant's entitlement cannot be reduced by more than 50 percent.

Only six states have a harsher disqualification (due to misconduct) law with respect to the reduction of benefit rights than Nevada: New Mexico, North Carolina, South Dakota, Texas, Wyoming and Wisconsin. (As of January, 1975)

The penalty to the claimant is already harsh--he receives a time disqualification (usually of 11 weeks) and has his benefit rights reduced (11 times his WBA). Under current law, should he quit voluntarily for a second time, he receives another time disqualification.

With regard to paragraph four: in no state can a claimant qualify for benefits in a second benefit year unless such claimant has had some employment since the beginning of the preceding benefit year. Only 14 states require that these wages be in insured (covered) employment. (As of September, 1973)

In any event, with implementation of HR 10210 (Federal law) almost all employment will be covered.

In regards to the proposed addition beginning on page 2, line 30, this provision runs contrary to the Java decision (Judith Java vs. the California Dept. of Human Resources, Oct. 1970, prompt payment of benefits) handed down by the U.S. Supreme Court, and would, if approved, be a conformity issue.

The amount of expected savings from this proposal is insignificant: $5,000 for FY 1977.

For the entire year 1976, there were only 32 cases of gross misconduct under the present law.

Under the present law, the claimant's entitlement cannot be reduced by more than 50 percent.

Only six other states have a harsher disqualification (due to voluntary quit) law with respect to the reduction of benefit rights than Nevada: Alabama, Colorado, New Mexico, North Carolina, Texas and Wyoming. (As of January, 1975)

The penalty to the claimant is considered by many to be currently harsh--he receives a time disqualification (usually of 11 weeks) and has his benefit rights reduced (11 times his WBA). Should he quit voluntarily for a second time, he receives another time disqualification.

The claimant who voluntarily quits already has the burden of proof on him to establish that he quit with good cause.

Currently, approximately 80% of all claimants who voluntarily quit are disqualified for 11 weeks (the usual length) and have their benefit rights reduced.

In 1973, there were only four states that had ~~a~~ no waiting week. There are now twelve states with no waiting week and no state has changed from no waiting week to a waiting week.

A waiting period results in a lack of income between the time of layoff and the time when benefits commence, providing some hardship for the unemployed.