

MINUTES

LABOR AND MANAGEMENT COMMITTEE
FEBRUARY 3, 1977
3:00 p.m.

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

Guests Present: See attached Guest Lists

Chairman Banner called the meeting to order at 3:09 p.m., then called upon Stan Jones, Nevada State Labor Commissioner to testify as to A.B. 70, 72 and 75, which were proposed by him.

ASSEMBLY BILL 70

Mr. Jones explained that this was mainly a housekeeping bill, designed to bring the statute into line with federal fair labor standards and to define what is a "workday" and "workweek." Mr. Jones stated that not having these defined causes problems in interpretation and administration of the statute, and that many employers have requested that these terms be defined. Mr. Dreyer asked if there might not be problems for people working various shifts, in that there is no provision that there be 8 hours between shift changes. Mr. Jones said that perhaps there should be a span of time between work shifts but that was not the intent of the bill at this time.

Fred Hillerby, representing the Nevada Hospital Association, requested an amendment to A.B. 70, allowing overtime for hospital employees based on an 8-hour day and an 80-hour week for a two-week period, rather than the 40-hour week as proposed. This would allow more latitude in scheduling days off for employees and would even out staffing patterns in hospitals and other employers who operate 24 hours, 7 days a week. Mr. Banner stated this amendment was being prepared.

John Madole, representing the Associated General Contractors, testified in opposition to A.B. 70 because of its effect on employers operating 24 hours a day, 7 days a week. However, Mr. Goodman said that most contractors were under union contract and are on a 40-hour week; and Mr. Robinson said that most of the contractors would be exempt from the law.

ASSEMBLY BILL 72

Mr. Jones testified that this bill deals with the collection of unpaid wages, generally involving underpayment of overtime and minimum wages. There are in excess of 20,000 employers in Nevada and they

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comply with the law to varying degrees. The present statute calls for an assignment from the affected employee to be obtained in order to collect these monies. However, the Labor Commissioner is not always able to obtain one and questions his authority to collect monies without one. His office is required to enforce the law with respect to overtime and minimum wages and it would make it easier if the law were changed to delete the requirement for an assignment. Sometimes the employee cannot be located to obtain the assignment and in other cases, he is still working for the employer and risks his job in giving the assignment. The Labor Commissioner receives 5-25 complaints daily and then conducts an audit of the employer and disperses whatever monies that were not properly paid. The checks are made out by the employer and either paid directly to the employee or through the Labor Commissioner. Without an assignment, many employers elect to voluntarily pay the employee, but if not, there is no way the Labor Commissioner can force them to do so. Mrs. Gomes asked if this would cover people from out of state, such as teenagers working in Nevada for the summer. Mr. Jones said it would because Nevada has reciprocal laws with the surrounding states. If an employee cannot be located, his money is held in a special account, and at the end of 7 years, paid into the General Fund. However, the employee can later present a claim for the money. Mr. Robinson asked if all employers were periodically audited, but Mr. Jones said that generally an audit was a result of a complaint.

Gail Bishop, representing Northern Nevada Affirmative Action Trust, testified in favor of A.B. 72 for the protection of employees.

Carl A. Soderblom, of the Nevada Railroad Association, appeared in opposition to A.B. 72. He stated that an employee may have left his place of employment under unfavorable circumstances, such as having stolen money or equipment, yet the employer is required by law to pay him for all time worked. Also he wants it spelled out that the Labor Commissioner is auditing solely for purposes of overtime and minimum wage violations.

Lou Paley, Nevada State AFL-CIO, testified in support of the bill, stating that one of the problems with labor is contractors who pay wages in cash and then do not always report deductions to NIC and Nevada Employment Security Dept. Generally, this is only a problem with some out-of-state contractors. However, the Committee agreed that this bill probably would not help that situation as it does not call for investigations of employers without a complaint.

John Madole testified in opposition to A.B. 72. He feels an employer could be harrassed by anonymous tips to the Labor Commission which would prompt repeated audits. However, Mr. Goodman didn't feel the Labor Commissioner would be a party to this. Mr. Madole stated that a dishonest employer will find some way to circumvent any law and the statute should stand as it is.

Daryl E. Capurro, representing the Nevada Motor Transport Assn. and Nevada Franchised Auto Dealers Assn., was opposed to the Labor Commissioner being able to independently and on his own do what he is already allowed to do on complaint. The current law allows enough latitude for him to discharge his duties.

Mr. Weise asked if A.B. 72 deals with how an investigation is instituted. Mr. Jones replied that at the present time, he can only investigate with an assignment. If there are other people who are subject to the violations in the same establishment, and if the employer does not voluntarily relinquish the money, he is unable to file suit. Under A.B. 72 he could.

Mr. Robinson suggested an amendment to A.B. 72 to protect the employer in the case of dishonest employees, or if they take draws. Mr. Jones said that the Labor Commissioner has never forced an employer to pay wages to any employee who may be subject to criminal action, and Mr. Goodman stated that there are other laws in the statutes for the protection of employers and that it does not need to be dealt with here.

Bob Alkire, Kennecott Copper Corp., testified in opposition to the bill, based on protecting the employer from a dishonest employee.

Mr. Weise suggested amending the bill to cover only active employees.

Mr. Robinson asked Mr. Jones why there was no Fiscal Note for the bill, and he stated that his present staff can do the job; does not feel it necessary to audit all employers.

ASSEMBLY BILL 75

Labor Commissioner Jones explained to the Committee that the Nevada State Apprenticeship Council provides for the promotion of bona fide training and the selection of apprentices. There are three employee members, three employer members and one from the general public. This again is primarily a housekeeping bill, designed to secure compliance with the federal equal employment opportunities statutes for apprenticeship training.

Alvin Patrias, of Nevada State Apprenticeship Council and Western Apprenticeship Coordinating Association, who is an employee member of the Apprenticeship Council, testified that both the Council and Association members totally support A.B. 75. Mr. Robinson commented that in the past, the Equal Rights Commission was concerned that some of the higher paying trades were not taking in minorities. Mr. Patrias stated that some had to be taken to court but the rest complied on their own. All have met their goals.

COMMITTEE ACTION

ASSEMBLY BILL 14

Mr. Bennett moved for a Do Pass, which was seconded by Mr. Goodman.

Mr. Weise felt this bill would result in higher administration costs for the NIC. Mr. Robinson, sponsor of the bill, stated that it should be amended so that all deposits with the NIC can be in the form of time certificates that would draw interest for the employer, and do away entirely with cash deposits. Mr. Robinson then moved to table the motion until such time as he has the amendment prepared. Upon second by Mr. Weise, the motion to table passed unanimously.

ASSEMBLY BILL 19

Mr. Goodman moved for a Do Pass, which was seconded by Mrs. Gomes.

Mr. Weise stated that the salary of the appeals officer should not be set in excess of district judges, and opposed the 10% built-in annual increase. After further discussion, Mr. Goodman withdrew his motion.

Mr. Weise moved to amend A.B. 19 so that the salary of the existing appeals officer would be increased to the level of district judges, that the second position be subordinate to the senior appeals officer and his salary be \$5,000 less, and that both salaries would be fixed for the next two years. This was seconded by Mr. Bennett.

Mr. Robinson stated that the district judges were going to ask for a raise of \$44,000 during this session, and by tying the appeals officer's salary to district judges, may result in paying him more than intended. Mr. Bennett agreed \$44,000 would be too high and withdrew his second. Due to a lack of a second, the motion died.

Mr. Robinson moved that A.B. 19 should be amended to eliminate the requirement for the appeals officer to be an attorney, which was seconded by Mr. Bennett. Mr. Weise and Mr. Banner both felt he should be an attorney. The motion did not pass, with only Mr. Robinson and Mr. Bennett voting in favor.

Mr. Weise moved for a Do Pass as written, which was seconded by Mrs. Gomes, and unanimously passed.

ASSEMBLY BILL 20

Mr. Banner stated there were two amendments to this bill. Mr. Robinson moved for adoption of Amendment 19A, which was seconded by Mr. Weise, and unanimously passed.

The second amendment was proposed by Mr. Robinson and would provide for an employer bond in the case of a later claim by an employee.

Mr. Bennett moved to adopt Amendment 6 to the bill, and was seconded by Mr. Dreyer. Mr. Weise did not like the open ended aspect of the bond, but upon a vote, Amendment 6 was unanimously adopted.

At Mrs. Gomes request, A.B. 20 was held until she has further input from the people she has been working with.

ASSEMBLY BILL 115

Mr. Goodman moved for a Do Pass which was seconded by Mr. Bennett. Mr. Weise questioned the fiscal impact of this bill; the motion passed with Mr. Robinson, Mr. Weise and Mr. Dreyer voting no.

ASSEMBLY BILL 116

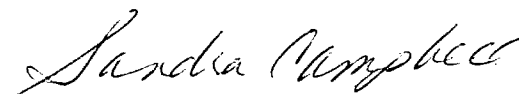
Mr. Banner submitted Amendment 36A to A.B. 116, which calls for a \$50 per month across the board for widows, widowers and permanent totals, and which actually deletes A.B. 116. Mr. Weise asked about the fiscal impact, and Mr. Banner stated it would cost about \$180,000 the first year and due to the age of the people involved, would diminish yearly. Mr. Weise moved for adoption of Amendment 36A, which was seconded by Mr. Bennett, and unanimously passed.

Mr. Weise moved that A.B. 116 be indefinitely postponed, but due to a lack of a second, the motion died.

Mr. Bennett moved that A.B. 116 be passed as amended. Upon second by Mr. Goodman, the motion passed, with Mr. Weise voting no.

Chairman Banner adjourned the meeting at 5:23 p.m.

Respectfully submitted,



Sandra Campbell, Assembly Attache

