

MINUTES

LABOR AND MANAGEMENT COMMITTEE
March 22, 1977

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

Guests Present: See attached lists.

Chairman Banner called the meeting to order at 3:25 p.m. and stated that A.B. 406, 407 and 408 would be heard.

ASSEMBLY BILL 406

James R. Henderson, Chairman of the Employment Security Advisory Council, testified that this bill is a result of Public Law 94-566, which made certain sections of the Nevada law in non-conformity with federal law. The Council recommended denial of benefits to certain job classifications which were excluded under federal law: executive positions, elected officials, national guard, prison inmates and temporary employees hired in emergency conditions. The Legislature could elect to cover any of these; however, every time the Council had an option, they denied it to save the fund.

Larry McCracken, Director of the Employment Security Department, testified on behalf of A.B. 406, stating that in those cases where the Advisory Council had an option under federal law, they chose only the minimum requirements. A.B. 406 had been submitted to the Labor Department for review and it just came back Friday with some mandatory provisons to bring it into conformity. These are currently with the bill drafters and not immediately available. Mr. McCracken then made a presentation using slide transparencies, and a copy of the text is attached hereto as Exhibit "A".

On questioning by Mr. Goodman, Mr. McCracken stated, that under another federal program, SUA, non-professional primary and secondary school employees, such as bus drivers, draw unemployment benefits, but under A.B. 406 they will not be able to between terms if there is a reasonable assurance that they will return to work the next term. They could draw benefits at the beginning of the next term if they find they have no job, but will only receive benefits from that point. However, the Legislature can include these people if desired. Mr. Weise asked if non-profit schools would include parochial schools and Mr. McCracken said they would if the school was one that was not directly affiliated with a church.

Mr. McCracken explained that the state and local governments have the right to elect, as methods of payment, either reimbursement (in lieu of contributions) or be taxed as a regular employer. He thought they would probably elect reimbursement which is significantly less costly. Also, these entities are not subject to the Federal Unemployment Tax Act (FUTA), as are all other employers. Mr. Robinson ^{asked} who was going to pay for the cost of administration for these public entities since administration is paid for by the funds received from

contributions to FUTA. Mr. McCracken stated the private sector would be paying the administrative costs for the public sector; however, all non-profit and public institutions would have to pay 100% of their extended benefits. Regular employers pay only 50% of extended benefits from week 27 to 39, and the federal government pays the other 50%. He was not sure if this would offset the administration costs, and Mr. Robinson questioned whether a fee could be exacted from the public sector to pay for the administration costs. On questioning by Mr. Weise, Mr. McCracken stated that according to an Employment Security Department estimate, based on the unemployment figures that they have, the various public entities will probably be setting up a fund that will represent from .5% to 1.0% of their gross payroll. However, he did not have the figures on unemployment in the public sector.

Mr. McCracken explained that the Legislature does have the option to exclude agricultural and domestic employees; however, if they do, the employer would not receive the offset credit from the federal government. Therefore, the employer would have to pay the entire federal tax of 3.4%, without the offset credit of 2.7%, which is paid for state taxes because the state coverage is mandatory. The result of not covering these workers would be so negative that it would be better to cover them.

Mr. Banner stated that, in essence, most all of the provisions of A.B. 406 are federally mandated and offers no real choice to the states. Mr. McCracken said that this was basically true, but there were options to extend coverage in certain areas. He also said the bill is drawn exactly as the Advisory Council recommended and he believed that it was recommended unanimously by that body. Mr. Henderson confirmed that it was unanimous on the part of the Council. He further stated that the Council wrote to the federal government to go on record that they were tired of being told what to do in Nevada, but received no answer.

Roland Oakes, representing the Associated General Contractors, testified in opposition to the bill.

Daryl E. Capurro, representing Nevada Motor Transport Assn. and Nevada Franchised Auto Dealers Assn., wondered if the wording on Page 15, line 19, would cover non-professional employees in primary and secondary schools during Easter and Christmas vacations. If so, this should be eliminated. Mr. McCracken stated that this bill would not preclude them from being covered for these periods. Mrs. Gomes then asked if our current regulations wouldn't cover the problem of these employees being eligible for the short vacation periods. However, Mr. Capurro stated that they are available for employment for the 1-2 weeks during these vacations and that it has been done in other states.

Mr. Capurro stated that when the 32,000 new employees in the public sector are covered under this bill, their higher wage base will be added to those already covered in the state and will have the effect of raising the base upon which the tax is imposed. He suggested an amendment to NRS 612.340, dealing with the determination of the weekly benefit, and to 612.545, which deals with determination of the base. He also brought up the point of retirement plans in the public sector and suggested an amendment to prohibit people on retirement from being able to collect unemployment.

Ed Greer, representing Clark County School District, testified that the bill will help the public sector. He projected that for 1978-79, if the public entities paid the regular employer tax, the cost to them would be about \$1.8 million; however, the "in lieu" option would range from \$300,000 to \$450,000. He recommended that the public sector be set up in a separate fund and be charged for the actual administration costs if using the reimbursement method. He preferred that the non-professional employees not be covered because it could have quite an impact on their costs and it would discourage the schools' use of summer teenage employees and student help.

On questioning by Mr. Banner, Mr. Henderson stated that the Employment Security Advisory Council is made up of 9 people, three each from labor, management and the public, who meet about 4 times a year at the call of the chairman and who have been working on this particular bill since about October. Mr. Banner stated that, through their representatives, all employers in the state should have been aware of this bill. There was a meeting in Southern Nevada of the Chamber of Commerce prior to the legislative session on this package of bills and that all employers were invited and most did not attend.

Mr. Weise asked Mr. Henderson if it would be consistent with the views of the Council to amend A.B. 406 to preclude coverage for non-professional school employees during the short vacations, exclude retired persons, and to segregate the public employees from the regular fund. Mr. Henderson didn't think the council would object to any of these; they did think the public employees should pay their administrative costs.

Clint Knoll, Nevada Assn. of Employers, testified in opposition to this bill primarily to the repeal of NRS 612.435 and 440 which involves the coverage of pregnancy.

Daniel P. Riordan, U. S. Department of Labor, San Francisco Region, explained that federal law calls for an unemployment tax to be imposed on most employers and, against that federal tax, a credit is allowed to those employers for their state contributions provided the state enacts its own unemployment insurance law that meets federal requirements. Previously, state and local government employees had not been covered because the federal government did not, and does not now, impose a tax on them. Agricultural and domestic workers were excluded because of the administrative problems at the time of the enactment of the original law in the 1930's. Now Congress has declared mandatory coverage to these workers. The method used in the case of domestic and agricultural workers is to extend federal unemployment tax to cover employers of those workers and provide a tax offset to their employers provided the state itself extended coverage to those groups. In the case of public employees, the federal government does not extend a tax to those so it used another method to cover these groups. This method provides that a state's unemployment insurance law cannot be approved by the Secretary of Labor unless the state extends coverage to these workers. The approval is necessary in order for employers to get their tax offset credit, and for the state to get its administrative grant from the federal government, which is paid for by the employer tax to the federal government. This is the incentive for the states to follow suit with the provisions of the federal law, and A.B. 406 is designed to meet the minimum federal requirements. Mr. Banner asked Mr. Riordan if he

had reviewed all three bills and Mr. Riordan said they would meet the federal standards with the technical changes that are now being drafted.

Mr. Riordan stated that Public Law 94-566 includes a provision which would require the states to deny benefits to retirees. If the individual's pension exceeded his weekly benefit, he would get no unemployment benefits. However, the effective date of this was delayed until late 1979 and a national commission was established to study unemployment compensation, including the effect of a provision such as this. Some states are holding off until the required effective date in 1979 to see what the results of the study will be. Therefore, the state has the option not to enact this portion until 1979.

On the subject of coverage during vacation periods for non-professional school employees, Mr. Riordan stated that the words "between terms" would not include Easter and Christmas vacations, and therefore the federal government does not give the states the option to deny benefits for these periods, unless they fall between the official terms of the school year. On questioning by Mr. Weise with respect to the proposed one-week waiting period, Mr. Riordan said there would be no conflict with federal requirements because it would apply to all claimants equally.

Mr. Riordan stated that, in the area of pregnancy, A.B. 407 will delete this disqualification from the Nevada statutes and this represents another federal requirement in Public Law 94-566, which reflects a Supreme Court decision striking down a pregnancy disqualification in another state, in that disqualification based solely on pregnancy, which ignores that a woman may be able to work and is available for work, discriminates on the basis of sex.

Mr. Weise asked if there would be a prohibition on segregating the fund for public employees. Mr. Riordan said we would need to withhold from computing the tax base and the maximum weekly benefit amount consideration of the wages that are paid to public employees, with the net result that the tax base and weekly benefit might be a little lower. He said there would be no federal prohibition against this. Mr. McCracken stated that he had anticipated this and submitted to the bill drafters language that would exclude state and local governments from these computations. However, in the area of the weekly benefit, he has been advised that this probably would not be legally permissible.

Mr. Robinson asked if legislation could be passed to not allow the "in lieu" option for public employees. But Mr. McCracken said the state did not have that option. On questioning by Mr. Weise, Mr. McCracken did state that the public sector could be charged for administration costs. Mr. Weise asked if there would be an additional cost to the private sector for the administration of the public sector fund, and Mr. McCracken said possibly, because the costs are paid by the private sector, through payment to FUTA, which comes back to the states to pay for the administration of the state programs. However, because of the size of Nevada in relation to population, the state traditionally gets more money from FUTA than the employers pay into the fund.

Mr. McCracken said he was not sure that a separate fund is the best way to go; it hasn't been fully analyzed. However, one of the advantages

is that the amount not needed for reimbursement could be carried over from year to year and invested and would draw interest. Mr. Weise asked if any amount charged to the public sector for administration would be deducted from the federal grant to the state. Mr. Riordan said he thought our grant might be reduced by the amount of administrative costs picked up elsewhere by the state. However, this will have no effect on the federal tax on employers; they will still pay the same .7% federal tax and that money will still go into the pot in Washington for administrative costs but might be distributed somewhat differently.

Due to the lateness of the hour, the Committee decided to continue the hearing on A.B. 406, 407 and 408 on Thursday, March 24, and the meeting was adjourned at 5:07 p.m.

Respectfully submitted,

Sandra Campbell
Sandra Campbell, Assembly Attache

Date: 3-22-77

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST (Non-Speakers)

NAME (Please print)	REPRESENTING
Bob Bydalek	ESD
Jim Sibley	ESD
Tom Chamberlain	ESD
Jim Oliver	ESD
Jack Pratt	ESD
WHAT DREW	ESD
DANIEL P. RIORDAN	U.S. DEPT. OF LABOR
Richard	ESD
G.W. BRIGHTON	W.C. Sch. DIST
Robert Butler	ESD
Chuck White	NEV. FARM BUREAU
Joe W. Hynd	Nevada Hotel & Lodging
Janice Bergoni	Nevada Callers Assn
Richard	CCSD
Ed Bauer	Gaming Ind. Assoc
Bob Best	Nev. State Sch. Boards Assoc
Tom Catlett	Nevada Ferry Assoc
Stan Warren	
Robert Quinn	
Bryon Armstrong	LV Sun
James R. Rice	T Camsters #631
Leskojed.	Gaming Ind. Assn of Nev -
Charles Zell	LV Review - Journal

LABOR AND MANAGEMENT COMMITTEE

PLEASE REGISTER IF YOU WISH TO BE RECOGNIZED

AB 406, 407, 408
AGENDA

3-22-77
DATE

NAME (please print)	REPRESENTING	BILL NUMBER	CHECK	
			FOR	AGAINST
W. H. Ebenele	Gibbens Co	407		
Milau Tresnit	Cosum City Schools	406		
ED GREER	CL Co S&L Dist	406		
CLINT KINCOLL	New Array Employers	407		✓
TOMMIE DAIKES	ASSOC GEN CONTR	406-408	?	?
Gene Taylor		406		—
James S. Anderson	Emp. Sp. Ado. Council	406-7-8		
Larry McCracken	E DS	406-408	✓	
Virgil Getts	FARM Bureau	406		
Lou Paley	AFL-CIO	406-408	✓	
Darryl Appuro		406		

A. B. 406

TO IMPLEMENT THE
FEDERAL UNEMPLOYMENT COMPENSATION
AMENDMENTS OF 1976

PUBLIC LAW 94-566

Exhibit A

STATE AND LOCAL GOVERNMENT

THE FEDERAL LAW PROVIDES:

- | | |
|--|--------|
| I. MANDATORY COVERAGE OF SERVICES STARTING JANUARY 1, 1978,
<u>EXCEPT FOR:</u> | P5,L19 |
| 1. ELECTED OFFICIALS | P5,L27 |
| 2. INDIVIDUALS IN MAJOR NONTENURED POLICYMAKING OR ADVISORY
POSITIONS, OR POLICYMAKING OR ADVISORY POSITIONS THAT
ORDINARILY DO NOT REQUIRE MORE THAN EIGHT HOURS PER WEEK | P5,L34 |
| 3. MEMBERS OF LEGISLATIVE BODIES OR THE STATE JUDICIARY | P5,L28 |
| 4. MEMBERS OF THE STATE NATIONAL GUARD OR THE AIR NATIONAL GUARD | P5,L30 |
| 5. INMATES IN CUSTODIAL OR PENAL INSTITUTIONS, AND | P6,L14 |
| 6. TEMPORARY EMPLOYEES HIRED IN CASE OF EMERGENCY OR DISASTER. | P5,L32 |

NEVADA LEGISLATIVE OPTION:

ANY OF THE ABOVE EXCLUSIONS CAN BE COVERED.

THIS ADDS ABOUT 32,000 JOBS TO COVERED EMPLOYMENT

II. MANDATORY BENEFIT PROVISIONS:

P15,L10

BENEFITS MUST BE DENIED BETWEEN TERMS BASED ON SERVICES PERFORMED FOR EDUCATIONAL INSTITUTIONS IN INSTRUCTIONAL, RESEARCH OR PRINCIPAL ADMINISTRATIVE CAPACITIES DURING PERIODS BETWEEN ACADEMIC YEARS OR TERMS IF AN INDIVIDUAL PERFORMS SUCH SERVICES IN THE FIRST OF SUCH ACADEMIC YEARS OR TERMS AND HAS EITHER A CONTRACT OR REASONABLE ASSURANCE OF EMPLOYMENT FOR THE FORTHCOMING ACADEMIC TERMS.

NEVADA LEGISLATIVE OPTION:

P15,L19

BENEFITS MAY BE DENIED BASED ON SERVICES PERFORMED FOR EDUCATIONAL INSTITUTIONS (OTHER THAN INSTITUTIONS OF HIGHER EDUCATION) DURING PERIODS BETWEEN SCHOOL TERMS TO NONPROFESSIONAL EMPLOYEES IF THE EMPLOYEE WAS EMPLOYED AT THE END OF THE PRIOR PERIOD AND THERE IS REASONABLE ASSURANCE EMPLOYMENT WILL BE PROVIDED DURING THE FORTHCOMING TERM.

III. STATE AND LOCAL GOVERNMENTS HAVE THE RIGHT TO ELECT THE
METHOD OF PAYMENT:

P12,L38

1. REIMBURSEMENT (IN LIEU OF CONTRIBUTIONS)
2. REGULAR EMPLOYER TAX

IV. THE STATE AND LOCAL GOVERNMENTS ARE NOT SUBJECT TO THE
FEDERAL UNEMPLOYMENT TAX ACT (FUTA).

METHOD OF PAYMENT

REIMBURSEMENT (IN LIEU OF CONTRIBUTIONS):

STATE AND LOCAL GOVERNMENTS THAT ELECT TO REIMBURSE

1. FURNISH A QUARTERLY WAGE REPORT
2. RECEIVE AFTER EACH COMPLETED QUARTER A BILLING

REGULAR EMPLOYER TAX:

STATE AND LOCAL GOVERNMENTS THAT DO NOT ELECT TO REIMBURSE
WILL BE TAXED AS REGULAR EMPLOYERS.

EXPERIENCE RATING (MERIT RATING) IS AVAILABLE

OTHER MANDATORY
COVERAGE PROVISIONS

VIRGIN ISLANDS TO BE INCLUDED AS STATE

P7,L33

COVERAGE OF EMPLOYEES OF NON-PROFIT ELEMENTARY AND
SECONDARY SCHOOLS

P6,L47

OTHER MANDATORY
BENEFIT PROVISIONS

ATHLETES

P10,L3

BENEFITS MUST BE DENIED TO PROFESSIONAL ATHLETES BETWEEN SEASONS

ALIENS

P9,L31

BENEFITS MUST BE DENIED TO CERTAIN ALIENS

PREGNANCY

NRS 612.435 & .440 MUST BE REPEALED (INCLUDED IN A.B. 407 -
EMPLOYMENT SECURITY ADVISORY COUNCIL)

PROVISIONS FOR CERTAIN
EMPLOYERS TO RECEIVE
OFFSET CREDIT

AGRICULTURAL SERVICE FOR EMPLOYERS OF AGRICULTURAL LABOR WHO
EMPLOY 10 OR MORE IN 20 WEEKS OR PAY CASH WAGES OF \$20,000
IN ANY CALENDAR QUARTER P3,L26

A. EXCLUSION OF LEGAL ALIENS UNTIL 1980 P4,L30

B. PROVISION FOR TREATING CREW LEADERS AS EMPLOYERS P4,L37

THIS ADDS ABOUT 1,000 JOBS TO COVERED EMPLOYMENT.

DOMESTIC SERVICE FOR EMPLOYERS OF DOMESTIC WORKERS WHO PAY
\$1,000 OR MORE IN CASH DURING ANY CALENDAR QUARTER P5,L14
&
P7,L11

THIS ADDS ABOUT 500 JOBS TO COVERED EMPLOYMENT.

TRANSITIONAL COVERAGE
(OPTIONAL)

PURPOSE:

TO PROVIDE PROTECTION WITHOUT A GAP FROM TEMPORARY SUA TO
PERMANENT STATE COVERAGE FOR

P9,L16

1. FARM LABOR
2. DOMESTICS
(PRIVATE HOME, COLLEGE FRATERNITIES & SORORITIES)
3. NON-PROFIT SCHOOL
(ELEMENTARY, HIGH)
4. STATE AND LOCAL GOVERNMENTS

NEW CLAIM FILINGS UNDER FEDERAL PROGRAM EXPIRE DECEMBER 31, 1977

IF NEVADA AGREES TO PAY BENEFITS TO QUALIFIED, NEWLY COVERED WORKERS
AS OF JANUARY 1, 1978, WE WILL BE REIMBURSED FROM GENERAL FEDERAL
REVENUES FOR THE COST OF BENEFITS BASED ON WAGES EARNED PRIOR TO
THAT DATE.