

MINUTES

LABOR AND MANAGEMENT COMMITTEE

March 29, 1977

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

Guests Present: See attached lists.

Chairman Banner called the meeting to order at 3:20 p.m. and announced that A.B. 359 would be heard first.

ASSEMBLY BILL 359

Renny Ashleman, representing the AFL-CIO, testified in favor of this bill, which would permit tips, commissions and bonuses to be counted as a part of wages when computing unemployment compensation benefits. He stated that a similar bill was considered two years ago but was put off due to the pending law suit between dealers and the IRS, which the dealers lost in the 9th Circuit Court. Mr. Robinson asked what influence passage of this bill might have on the IRS, but Mr. Ashleman said the IRS had tightened up reporting on tips so much now that he believed this was no longer a problem.

Larry McCracken, Executive Director of the Employment Security Department, testified in opposition, stating that this proposal departs from the majority of states in that tips are not considered wages. He said 40% of Nevada's work force is subject to tipping and this bill will cause an enforcement problem. From the standpoint of the employer, the main advantage of A.B. 359 would be employee satisfaction. Disadvantages would be imposing a tax on employers for an item that cannot be controlled or accounted for. Any claims would be charged against the employer's experience rating which might raise the tax rate and would cause increased record keeping on the part of employers. On the other hand, employees would gain increased benefit amounts if their benefits would normally be less than the maximum. Disadvantages for the employee would be that the benefits would be inequitable for those earning \$19.00 or less in tips per week. In general, there would be increased contributions to the fund; but added review and appeal expense, increases in benefit payments, potential manipulation of benefit eligibility and weekly benefit amount and subsequent drain on the fund.

Lou Paley, representing Nevada State AFL-CIO, testified in favor of A.B. 359, stating that under the Fair Labor Standards Act, an employer can apply 50% of tips against wages. Therefore, tips are earned income and should enable an employee to draw unemployment benefits and workmen's compensation based on these amounts. Mr. Weise questioned whether, if the employer declares all the tips as income and is establishing that value as part of the income of the employee, this would establish a precedent and reduce minimum wage. Also, this would expand the exposure of the working people with the IRS, where they receive cash tips and might discourage bonuses being paid.

Mr. Ashleman stated that for about six years the IRS has been setting up standards throughout the state so that legally the exposure Mr. Weise referred to is already there. He stated that people in Nevada have their tips taken into account in bargaining and when they are taxed by the IRS, but not when they are out of work. This is a definite inequity. He also did not think the problem of manipulation would be as extensive as Mr. McCracken thought. Mr. Robinson suggested it would be easier if there was no tipping and a certain percentage was simply added to each check. However, the employer could claim it as wages and not add to the check. Mr. Ashleman, however, did not believe this was too likely; the employer would have trouble with his workers and would attract the attention of unions. Mr. McCracken said that, in the case of banquets, the patron receives a check with the tip already figured in, and in these cases, the employer is already paying the unemployment compensation tax on it. However, those tips that are between the employee and the patron are the ones that are difficult to administer.

Claude Evans, Commissioner of the NIC, stated that any tips that are included for banquets and on credit cards are considered wages by the NIC and used in computing the amount of workmen's compensation benefits.

Robbins Cahill, representing Southern Nevada Resort Association, and also speaking for his Northern Nevada counterpart, testified in opposition to this bill due to the cost to employers. Also, it would open the door to additional legislation and manipulation by employees. He stated that under union contract, tips cannot be applied against the minimum wage.

Clint Knoll, Nevada Association of Employers, was strongly opposed to the bill in that it would encumber the Employment Security Department. He also questioned whether the employer reports tips for Social Security.

#### ASSEMBLY BILLS 275 and 336

Mr. Banner quoted a portion of an NIC letter to its policyholders, dated September 22, 1976, regarding proposed coverage for occupational heart diseases, which is attached hereto as Exhibit "A".

Warren W. Goedert, representing Nevada Trial Lawyers Association, testified in favor of the bills. He said when NIC legislation was originally enacted in 1913, there were no exclusions, but since that time, restrictions have been added. He said we should not look at workmen's compensation as employer vs. employee, but rather the price of goods and services vs. the cost of producing these goods and services in terms of labor and any cost in human terms. He objected to the fiscal notes as they gave no basis for the bottom line amount. The note for A.B. 275 says that for 1977-78 it will cost \$12 million to cover heart problems. However, there are only two cases since 1973 for heart attacks that resulted from accidents. Any other cases in this period dealt with heart problems that are already covered under statutes. So this makes 7 cases in 4 years that he is aware of (two of which he won), so he didn't understand how the NIC came up with a projection of \$12 million. Mr. Goedert stated that any time your illness or accident has a causal connection with your occupation,

it should be covered. This is a cost that employers should expect. Under subsection 1(a), he suggested the word "arteriosclerosis" may be too limiting. This does not mean that every person who has a heart attack on the job would be covered; there must still be a causal connection.

Mr. Weise asked why the law was necessary if Mr. Goedert had been able to win some cases under the current law. Mr. Goedert said the statutes were not clear, that he can get coverage for employees with heart attacks; the real problem is with heart diseases. Only police and firefighters are covered for this. Mr. Weise contended that these bills would only cause numerous claims to be filed regardless of the reason for the heart attack, but Mr. Goedert said many claims are being made now for this coverage but there are no guidelines. In 1973 a floodgate of claims was predicted as a result of his winning a case, but this did not happen then and there is no reason to believe it will now. Mr. Weise said Mr. Goedert had already proved there is a mechanism for getting redress in these cases, but Mr. Goedert said these should be settled without going to court since these people have a valid claim.

Mrs. Gomes stated that a side benefit of A.B. 336 is that there may be conditions created that might help to prevent the pain and loss that go with heart problems. As to the fiscal note, she said that nothing came with it to explain how many cases there would be and she felt there must be some experience rating here or in another state to enable the NIC to come up with more information.

Mr. Banner commented that diseases of the heart are recognized now by the NIC but only for certain occupations. However, stress is becoming more and more an occupational hazard and should be recognized as such.

Lou Paley testified in favor of the bills. He said when a worker dies on the job and has no spouse or children, there is no money paid out except to bury the worker so why couldn't this money be used to cover some of the cost of heart attacks. We should at least take care of those who die on the job from heart attacks, if not all people with heart diseases.

Joe Jackson, representing the Nevada State Press Association, testified in opposition to the bills, reading from a prepared statement, attached hereto as Exhibit "B".

Vince Laveaga, of Sierra Pacific Power Co., testified in opposition to coverage for heart diseases, because this would lead to increased costs for his employer and would be reflected in higher utility rates.

George Carne, of S.S. Kresge Co., testified in opposition to the bills on the basis of duplication of coverage. His company has had 8 employees with heart attacks and Kresge's own insurance paid better than the NIC.

Steve Kreck, of Southern Bolt and Screw, testified in opposition to the bills, saying that police and firefighters are covered for diseases of the heart but they have to undergo an annual physical. These bills

would force his company to require physicals for all employees, including an EKG, which will raise his costs which will be passed on to the consumer, and will limit his company's desire to hire elderly people.

Glen Taylor, representing Basic Management, testified in opposition, due to the cost of having to institute additional physical examinations with an EKG. His company has good insurance with better coverage than NIC.

Chairman Banner said that testimony on A.B. 359 and 462 would continue on Thursday, March 31, and testimony on A.B. 275 and 336 would continue on Tuesday, April 5, and adjourned the meeting at 4:55 p.m.

Respectfully submitted,

*Sandra Campbell*

Sandra Campbell, Assembly Attache

LABOR AND MANAGEMENT COMMITTEE

PLEASE REGISTER IF YOU WISH TO BE RECOGNIZED

AB 275, 336, 359, ~~426~~ 462  
 AGENDA

3-29-77  
 DATE

NAME (please print)	REPRESENTING	BILL NUMBER	CHECK	
			FOR	AGAINST
Jim Jackson	New State Press Assn	275 336		✓
George Savaga	SIERRA PAC. POWER CO.	" "		✓
George Carne	SS Dress Co.	275-336		✓
Max Blackham	Kannocott Copper Corp	275-336		L
<del>Bob Wong</del>	<del>ESD</del>	<del>AB 359</del>		<del>✓</del>
Bob WARREN	NEU. LEAGUE of LIT. ES	AB 275 359 336, 462	1	3
STEVEN STUCKER	NORTH LAS VEGAS	AB 462	✓	
JIM LORIGAN	N. I. C.	275-336		
CLINT KNOLL	New Ass'n of Employers	275-336		✓
STEVE KRECK	Southern Bolt & Screw	275-336		✓
REX T. BAGGETT MD	New State Med Assoc	275-336		✓
T. R. Ashleman	AFL-CIO Health	AB-359		
Wm R. Gibbens	The Gibbens Co.	275-336-359		✓
Allen P. Taylor	Basic Management Co	275-336-359		L
W. H. Roman	Titanium White Corp	275 336 359		✓
WARREN W. GOEDERT	NTLA	275-336	X	
Larry McCracken	BSA	AB 359		✓
Carl Kent	Home Value Reg	275-336		✓
Pat Johnson	"	"		✓
Mike Vernon	Seas Ski Corp.	336		✓
B. Estabill	New Dent Assoc	AB 359		
Lois Patey	AFL-CIO			

Date: 3-29-77

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST (Non-Speakers)

NAME (Please print)	REPRESENTING
William M. Clewens	Reno Newspapers, Inc.
Keta Naueli	Sierra Pacific Power Co.
Mary Ann Dickens	Gift Engr. & Mfg.
Jim Silbo	Emp. Sec. Dept.
Halt Lyn	✓ ✓
Al Gusemer	Sierra Cast Inc.
Del Merritt	Reckdel Inc.
W. H. Wain	Nevada Mining Association
Walt Fustlythms	Sea & Ski Corp.
John Granetti	Xarrati
Lenny Gordon	Mallory Electric
Del Blair	Neurodyne - Dempsey Inc.
Bruce R. Bogart	C.P.E.
Claude Evans	NIC
George Hawes	AFK-CIO
Gebraswell	Inter-Tribal Council of Nevada
Wally Warren	SPPC
Lon Paley	AFK-CIO
Mary Capurso	Nev. Motor Transp. Assn.
Bob Young	SPPC
Bryon Armstrong	L.V. Sun
Tom Case	Central Tele
Les Koyeda	Gaming Ind. Assn.

NEVADA INDUSTRIAL COMMISSION



CLAUDE EVANS  
COMMISSIONER REPRESENTING LABOR  
JAMES S. LORIGAN  
COMMISSIONER REPRESENTING INDUSTRY

ADDRESS ALL CORRESPONDENCE TO  
NEVADA INDUSTRIAL COMMISSION

REPLY TO

September 22, 1976

Dear Policyholder:

We are about six months away from the opening of the 1977 Legislative Session and must be giving some serious thought to what legislation is necessary from the standpoint of the employers. We have met with the Governor's NIC Labor/Management Board, Advisory Board, and have initiated the first round of legislative discussions. Incidentally, the Management Team on the Board consists of the following:

Rowland Oakes - Associated General Contractors - Reno, Nevada  
Wallie Warren - Reno, Nevada  
E. D. Blackburn - Titanium Metals Corp. - Henderson, Nevada  
Bill Campbell - Nevada Resort Owners Assn. - Las Vegas, Nevada  
Max Blackham - Kennecott Copper Corp. - Ruth, Nevada

These are the gentlemen who have been appointed to represent employers in working with the Nevada Industrial Commission and to provide advice to the Governor.

On June 23, 1976 we discussed miscellaneous pieces of legislation submitted by both Labor and Management. We now need input from each of you regarding these possible legislative matters.

Some of the proposed legislation discussed, but by no means earning total support of the Labor/Management Advisory Board, is as follows:

Eliminate Occupational Exemptions: This is arrived at in an attempt to reduce those occupations presently holding exemptions; i.e. farming, but retaining the exclusion of casual employment, stage performers, and household domestic service.

Extend Occupational Disease Coverage for Heart Disease to all Occupations: Highly controversial and almost actuarially impossible to cost out. This will be a thorny issue. Courts are defining compensable heart disorders which should probably be defined by the legislature with the advice and input of labor and management.

Extraterritoriality: "To broaden act to allow claims to be filed in the State; (1) in which employee was injured or killed; (2) in which employee's principal place of employment was located; or (3) in which the employee was hired. Also to authorize the Commission to insure employers against their liability for compensation or damages under the law of any State, Federal or Maritime law when written incidental to and in connection with Nevada Industrial Insurance." (Emphasis added)

The last part of this legislation is sorely needed to protect the employers and I will continue to strongly urge this legislation.

EXHIBIT "A"

Revision of Schedule of Worker's Compensation Benefits: An effort to bring benefits to the level recommended by the National Commission. In light of Nevada's position among the top ten states in the nation for benefit levels, there appears no need to endorse higher benefits at this time.

Hernia: This is an attempt by Labor to clean up the language of our present statute without really broadening the parameters of coverage. It does not appear offensive on its face.

Occupational Diseases: As of now, there is no provision for a permanent partial disability award for occupational disease. I feel that in some cases an award is called for just as in the accident section (NRS 616).

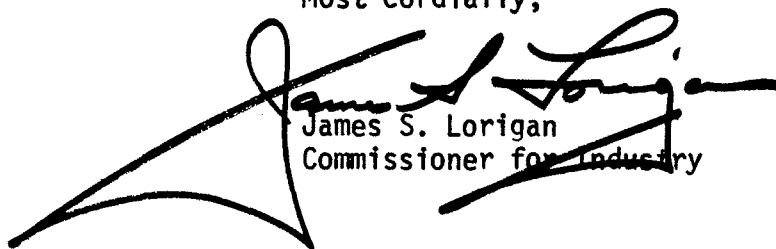
Other measures discussed involved Administrative housecleaning and Safety (OSHA) and the Mine Inspector's office.

Again, I remind you that any possible legislation herein listed, and otherwise is merely that - possible legislation. The final Labor/Management endorsed legislation will require much more consideration.

Let me affirm that now is not too early to start considering remedial legislation on Nevada Industrial Commission matters which concern you. Urge your trade associations and groups to appoint a legislative representative or committee to let our Labor/Management Advisory Board and the Nevada Industrial Commission know your wants and needs. I welcome your invitation to speak or provide speakers for your groups about legislative proposals and other important worker's compensation loss control programs.

Assuring you of my cooperation and sincere interest, I remain,

Most cordially,



James S. Lorigan  
Commissioner for Industry



COMMENTS of Nevada State Press Association RE Assembly Bills 275 and 336 before the Assembly Committee on Labor and Management.

Assembly bills 275 and 336 are part of a legislative package, most of it conceived by the Nevada Trial Lawyers Association. If carried to its conclusion, it could bring about the downfall or hamstringing of the Nevada Industrial Commission and deny or reduce protection to the very people the NIC was designed to benefit, Nevada's working men and women.

In opposing these bills, the Nevada State Press Association does not appear today as a champion of the peoples' "right to know" but speaks on behalf of newspapers throughout the state as business enterprises, members of the Nevada business community, more particularly as participants in the world of small business.

Included in our membership are 10 daily and 19 weekly newspapers scattered throughout the State, produced in or distributed in 30 more or less populous centers. We don't have a very big operation, it is true, and in that respect we like to think we are in the same boat with a great many other small businesses in the silver state. We struggle, and we're grateful to still be alive and we like to think our readers appreciate the effort we expend to bring them news of their own community, the state, and to some extent the nation and the world. None of us makes a lot of money, after we meet the payroll, pay the rent, buy the commodities like paper, and ink, and power, pay our taxes, and scratch out the necessary cash to cover the other costs of doing business, not the least of which is an ever increasing outlay for insurance premiums.

What matters is that we are there, as members of the Nevada business community, as we have been since the Nevada Industrial Commission was established by the Legislature in 1913 because it was felt that industrial coverage is of such prime importance that it should be handled by a state agency rather than by a private insurance carrier. Nevada's newspapers have, individually and collectively, paid their premiums, those premiums which insure that no benefits paid by the industrial commission are paid with taxpayers' money.

But how long will many of our association members be able to pay those premiums, how long will they be able to stay in business, if bills like AB 275 and 336 are allowed to pass? They are an especially troublesome example of how far down the road this legislation has travelled in a few short years. At one time heart disease wasn't considered an occupational hazard. Then it was applied to firemen and policemen. Backers now propose to extend coverage for heart disease to all occupations. This would include everyone whose job requires nothing more strenuous than pushing a pencil or eraser, filing a letter, punching a typewriter; clerk or stenographer, messenger boy or corporation president. As a result, employment would be denied to otherwise well qualified applicants who might have some type of heart deficiency but whose work assignment would in no way be so strenuous as to risk aggravating a heart problem. A heart problem would be presumed to have developed because of a person's occupation without regard as to whether part or all of the problem just happened to occur or was caused by off-the-job activity. The bill merely provides that the physical symptoms must occur during working hours and the employer must be informed on the day of the occurrence.

Assembly Bill 336 deleted the present provision that an injury sustained during the course of a social function or athletic function sponsored by the employer be deemed not to have happened during the course of his or her employment. That sends the office Christmas party and the company softball team down the drain putting the screws on employer and worker alike.

We urge the defeat of these two bills as well as most of the rest of the NIC legislative package. Respectfully submitted by Joe Jackson.