

SENATE
COMMERCE & LABOR
COMMITTEE

Minutes of Meeting
Friday, March 18, 1977

The Commerce and Labor Committee meeting was held on March 18, 1977, at 1:00 P. M. in Room 213.

Senator Thomas Wilson was in the chair.

PRESENT: Senator Wilson
Senator Blakemore
Senator Ashworth
Senator Bryan
Senator Close
Senator Young
Senator Hernstadt

ALSO Riley Beckett
PRESENT: George Haws
John Reiser
Bob Haley
Press Representative

The Chairman asked the committee if there was any objection to the letter he had prepared for the Chairman of the Public Service Commission regarding updating their rules and regulations.

SENATOR BLAKEMORE moved approval of the letter.

SENATOR HERNSTADT seconded.

Vote was unanimous.

The committee considered the following:

S. B. 281 PERMITS LUMP SUM PAYMENTS OF WORKMEN'S COMPENSATION
PERMANENT PARTIAL DISABILITY AWARDS (BDR 53-827)

Mr. Reiser advised that he wished Mr. Haley to begin the testimony.

Mr. Bob Haley, of N.I.C., stated that he amended the bill after talking to SENATOR CLOSE. See pages 2 and 4 of Exhibit A for his testimony.

Mr. Haley indicated that for each degree of disability an individual is entitled to \$600.00 (each percent). Currently he is entitled to 50% of his average wage, up to a maximum of \$1200.00 considered wage. Stated this bill would calculate on a different basis.

He stated the means of calculating permanent partial disability was brought into effect in 1973 and all compensation was paid out on a monthly basis. The bill provided that lump sums could not be paid under that law. All of the reserves were established on that basis, figuring that they were going to pay out over the life time of the individual for five years the awards that were given. In 1975, the lump sum feature was placed in the bill. That feature was supposed to carry a deterrent with it. The recommended procedure for permanent partial is to pay it out over the working life time, so when the 1975 amendment was made, the lump sum resulted in an actual reduction in the amount of compensation to which the individual would have been entitled. In 1975 they had no means to determine what kind of selection we'd get on those who would elect to take the lump sums, therefore, there was no reduction in the method we estimated on the costs of permanent partial disability, because we were going to be putting an estimate on an estimate and we did not have the experience to do that.

Further, this bill provides that we move back into practically the same situation we were in 1973. We are not paying anyone any more than the present value of an award at that time, under the statute then.

He stated that you could not get a lump sum under permanent total disability.

SENATOR ASHWORTH summarized by saying that the committee is doing two things: (1) taking out the prohibition against taking lump sums over 12%, and (2) this amendment would say that we are going to pay you in cash what we would reserve for future payments.

Mr. Haley indicated they could put a mortality factor into the annuity table.

Mr. Reiser stated that they were talking about a temporary annuity with a guarantee period. You would be paying out the value of the annuity immediately.

SENATOR ASHWORTH asked if the committee would get a statement from N.I.C. stating that the employer rates would not be raised if this bill was passed. Mr. Haley stated they would put a fiscal note on it.

Mr. Reiser referred the committee to item 2, page 2, and stated they would require a rehabilitation program to be set up. He referred the committee to earlier testimony regarding people who have drug problems, and stated it is important that their rehab program be completed.

Further, he stated that if an individual has a business or some type of investment that can be demonstrated to be feasible, and can demonstrate an income potential that will help him return to some kind of work, it may be to his and everyone's advantage, to have a lump sum rather than a monthly income. On the other hand, the the rehab counsellors know that there is a high risk for success in small business and getting bank financing as well as Small Business Administration loans is not always possible, and endeavor to return individuals to a salary.

Mr. Riley Beckett stated that tremendous policy decisions have to be made. He stated the National Commission that formed under the OSHA Act had studied the entire workmen's compensation systems across the United States has come up with many recommendations. One of those recommendations is that there not be any lump sums, or only in extreme cases of necessity. He stated that when a person is young the financial demands are greatest. As the person grows older, and if indeed you are 25% disabled, you will not be able to generate that income because of your disability, and the money will be gone.

SENATOR ASHWORTH stated that \$25.00 or \$50.00 a month is not enough to do anything with and really should not be considered as our policy in the State of Nevada, because the minute we start doing that, then we are going to erode the system in other areas where lump sum payments are going to want to be paid. Stated the committee needed to talk to people that are getting monthly payments and are satisfied.

Riley Beckett pointed out that right now, permanent partial disability payments are not considered vested at the time the award is made. He stated that by vested he means to have an absolute right to that and in the event that the person dies, his estate would. He believes that if you put in the provision for lump sum, a person may elect to receive that amount, discounted to present worth, and it makes it very strong in fact that there is almost a vesting.

In response to a question by SENATOR CLOSE, Mr. Reiser stated that an individual who is permanent partially disabled may be so for a number of years before he becomes

permanent totally disabled. Further, when indicated as permanent partially disabled you never go to the full 100%.

SENATOR CLOSE stated that his understanding was that when people get to about 55 or 65%, they begin to go from permanently partial to permanently total and therefore, Mr. Reiser's figures are misleading.

Mr. Reiser testified that the permanent partial disability is not subject to attachment or garnishment. The question is, that if the permanent partial disability is paid in a lump sum, whether a third would be paid in attorney fees, and another third to other creditors, leaving the individual very little readjustment income.

Committee discussed at length the fact that a cap needs to be put on the percentage of lump sum.

SENATOR CLOSE moved that a draft be given to Mr. Frank Daykin and introduced as a bill.

SENATOR BRYAN seconded.

Vote - unanimous.

N.I.C. was instructed to come up with a percentage figure and furnish to the committee by Monday, March 21, 1977.

SENATOR BRYAN moved to kill S. B. 281.

Seconded by SENATOR CLOSE.

Vote unanimous.

S. B. 282 MODIFIED HEARING PROCEDURES FOR COMPENSATION UNDER NEVADA INDUSTRIAL INSURANCE ACT (BDR 53-826)

SENATOR ASHWORTH made a motion to request a resolution for a study of the N.I.C., its rules, regulations and procedures by the Legislative committee.

SENATOR HERNSTADT amended the motion to include a study of going to a totally private system, or the three way system.

The amending motion was seconded by SENATOR BLAKEMORE.

Vote - those in favor were SENATORS CLOSE, WILSON and HERNSTADT. Those against were SENATORS ASHWORTH, BRYAN, BLAKEMORE, YOUNG.

With the failure of the amended motion, the committee returned to the consideration of the original motion made by SENATOR ASHWORTH.

The original motion was seconded by SENATOR YOUNG.

Vote: All in favor of the study except SENATORS CLOSE, WILSON and HERNSTADT and BRYAN. Motion failed.

SENATOR CLOSE moved to hold S. B. 282. Failed for lack of a second. Vote - unanimous.

S. B. 283 REVISES DEFINITION OF ACCIDENT, INJURY AND PERSONAL INJURY FOR PURPOSES OF INDUSTRIAL INSURANCE (BDR 53-837)

SENATOR BRYAN moved to indefinitely postpone.

SENATOR ASHWORTH seconded.

Vote was unanimous.

S. B. 284 MAKES NEVADA INDUSTRIAL COMMISSION RESPONSIBLE FOR COSTS OF DEPOSITIONS (BDR 53-835)

SENATOR BLAKEMORE suggested a subcommittee investigate this bill. SENATORS YOUNG and BRYAN were appointed as subcommittee.

S. B. 276 REDEFINES EMPLOYER FOR WORKMEN'S COMPENSATION PURPOSES (BDR 53-838)

SENATOR BRYAN moved to indefinitely postpone.

SENATOR YOUNG seconded.

Vote - unanimous.

S. B. 271 ALLOWS ACTION BY EMPLOYEE AGAINST NEVADA INDUSTRIAL COMMISSION IF IT FAILS TO PROVIDE NECESSARY MEDICAL ATTENTION (BDR 53-828)

SENATOR BLAKEMORE moved to "hold".

SENATOR BRYAN seconded the motion.

Vote - unanimous.

Hearing on S. B. 271 rescheduled for Friday, March 25, 1977 at 1:00 P.M. on Rush case.

SENATOR BRYAN made motion for interim committee to do a study on alcoholism.

SENATOR ASHWORTH seconded.

Vote unanimous.

BDR 57-1214 REQUIRES EXAMINATION FOR CERTAIN FRATERNAL BENEFIT INSURANCE AGENTS

Introduction accepted.

BDR 4-1049 GRANTS PRIVILEGES AGAINST DISCLOSURES OF COMMUNICATION BETWEEN LIFE INSURANCE UNDERWRITERS AND CLIENTS

Introduction accepted.

BDR 53-955 REQUIRES ENTERTAINMENT AGENCY TO OBTAIN LICENSE FROM LABOR COMMISSION.

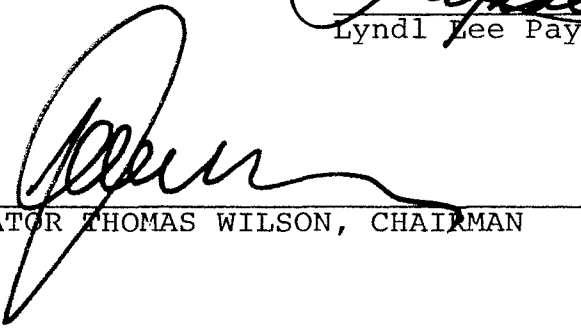
SENATOR ASHWORTH objected. Introduction refused.

Meeting adjourned 2:15 P.M.

Respectfully submitted,


Lyndl Lee Payne, Secretary

APPROVED BY:


SENATOR THOMAS WILSON, CHAIRMAN

THOMAS R. C. WILSON
SENATOR
ASSISTANT MAJORITY LEADER
241 RIDGE STREET
RENO, NEVADA 89501
TELEPHONE
OFFICE (702) 322-0635
HOME (702) 329-5816



COMMITTEES
CHAIRMAN
COMMERCE AND LABOR
MEMBER
FINANCE
LEGISLATIVE FUNCTIONS

Nevada Legislature

SENATE

FIFTY-NINTH SESSION

March 18, 1977

Honorable Noel A. Clark
Chairman
Public Service Commission
505 East King Street
Carson City, Nevada 89710

Dear Noel:

Following my conversation with Commissioner Heber Hardy, during the Committee's hearings on March 14, 1977, the Senate Committee on Commerce and Labor has authorized me to express our views formally.

The rules and regulations by which the Commission regulates utilities and companies within its jurisdiction are contained in the 1961 Rules of Practice and various forms of general order which are from time to time rendered by the Commission. The general orders relate variably to various subjects. The rules of practice are badly outdated, are not followed in many respects, and have abrogated by ad hoc procedures followed by the Commission. As a result, it is impossible for a member of the general public, a subscriber of service, or any interested person to have available in current and complete form, any compilation of rules, regulations and orders effecting their interests.

Accordingly, the Committee strongly recommends that the Commission develop and publish its present regulations and its rules of practice which comply with existing and required standards and methods of practice by and before the Commission.

I understand the following has been under discussion for a number of years and that the work load of the Commission and its staff has prevented completion of this work. However, as the subject matter becomes more complex and as more time goes on, it becomes increasingly necessary that this be done. I hope the Commission accepts this recommendation as constructive and intended to be helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Wilson".

THOMAS R. C. WILSON
Nevada State Senator

TRCW/llp

cc: G.H. ... E.A. ...

1097

*Exhibit A
Bob Haluy*

616.605 Permanent partial disability: Compensation.

1. Every employee, in the employ of an employer within the provisions of this chapter, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided in this section for permanent partial disability. As used in this section "disability" and "impairment of the whole man" are equivalent terms.

2. The percentage of disability shall be determined by the commission. The determination shall be made by a physician designated by the commission, or board of physicians, in accordance with the current American Medical Association publication, "Guides to the Evaluation of Permanent Impairment".

3. No factors other than the degree of physical impairment of the whole man shall be considered in calculating the entitlement to permanent partial disability compensation.

4. Each 1 percent of impairment of the whole man shall be compensated by monthly payment of 0.5 percent of the claimant's average monthly wage. Compensation shall commence on the date of the injury or the day following termination of temporary disability compensation, if any, whichever is later, and shall continue on a monthly basis for 5 years or until the 65th birthday of the claimant, whichever is later.

(a) The commission may pay compensation benefits annually to claimants with less than a 25 percent permanent partial disability.

(b) The commission may advance up to 1 year's permanent partial disability benefits to an injured workman who demonstrates a dire financial need that is not met by the ordinary monthly benefit. Monthly permanent partial disability benefits will not begin until the total advance is offset.

(c) A claimant injured on or after July 1, 1973, and incurring a disability that does not exceed 12 percent may elect to receive his compensation in a lump sum payment calculated at 50 percent of the average monthly wage for each 1 percent of disability, less any permanent partial disability benefits already received.

(c) Permanent partial disability awards may be paid in lump sum under the following conditions:

(1) A claimant injured on or after July 1, 1973 and incurring a disability that does not exceed 12% may elect to receive his compensation in lump sum.

(2) A claimant injured on or after July 1, 1973 and incurring a disability that exceeds 12% may, upon demonstration of a need which is substantiated by a comprehensive rehabilitative evaluation, be authorized by the commission to receive his compensation in lump sum.

(3) The spouse, or in the absence of a spouse, the dependent children of the deceased claimant injured on or after July 1, 1973, who are not entitled to compensation in accordance with NRS 616.615 are entitled to lump sum equal to the present value of deceased claimant's undisbursed permanent partial disability award.

(d) The commission shall adopt rules and regulations concerning the manner in which a comprehensive rehabilitative evaluation will be conducted and defining the factors which will be considered in the evaluation required to substantiate the need for a lump sum settlement.

(e) Lump sum payments which have been paid previously on claims incurred on and after July 1, 1973 shall be adjusted to conform to the provisions of this section.

(f) No total lump sum payment for disablement shall be less than an amount calculated by the following equation:

$$\text{.5 x average monthly wage x degree of disability}$$

5. The lump sums payable shall be equal to the present value of the compensation awarded, less any advance payments or lump sums previously paid. The present value to be calculated using monthly payments in amounts defined in paragraph 4 and

actuarial annuity tables adopted by the commission.

Such tables will be reviewed annually by a consulting actuary.

5. (a) ~~(a)~~ Death of the employee terminates entitlement to permanent partial disability compensation.

6. (a) ~~(b)~~ An employee receiving permanent total disability compensation is not entitled to permanent partial disability compensation during the period when he is receiving permanent total disability compensation.

(b) ~~(c)~~ An employee receiving temporary total disability compensation is not entitled to permanent partial disability compensation during the period of temporary total disability.

(c) ~~(d)~~ An employee receiving temporary partial disability compensation is not entitled to permanent partial disability compensation during the period of temporary partial disability.

7. Where there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury shall be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

EXAMPLE

10% IMPAIRMENT

FY 1977 claim - Maximum considered wage \$1,200.

Current lump sum = 10% disability x 600 = \$6,000.

Example of Current Value Lump Sums Payable Assuming 6% Discount Rate

<u>Claimant Age</u>	<u>Annual Payment</u>	<u>Annuity Factor (No Mortality)</u>	<u>Present Value</u>
25	\$720	15.9488	\$11,483
30	720	15.3682	11,065
35	720	14.5907	10,505
40	720	13.5504	9,756
45	720	12.1581	8,753
50	720	10.2950	7,412
55	720	7.807	(5,621) 6,000
60	720	4.4651	(3,214) 6,000