

SENATE  
COMMERCE & LABOR  
COMMITTEE

Minutes of Meeting  
Wednesday, April 27, 1977

The meeting of the Commerce and Labor Committee was held on April 27, 1977, in Room 213 at 3:30 P.M.

Senator Thomas Wilson was in the chair.

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

ALSO

PRESENT: Lou Paley  
Larry McCracken  
Jack Hiatt  
Bob Beach  
George Angel  
Clark Guild

ADMINISTRATIVE MEETING:

The Committee considered the following:

S.B. 505 INCREASES LIQUOR TAX TO PROVIDE FOR TREATMENT OF ALCOHOLICS WHO ARE INDIGENT. (BDR 40-1752)

Motion to indefinitely postpone by SENATOR ASHWORTH.  
Seconded by SENATOR YOUNG.  
Vote: Unanimous.

A.B. 448 PROVIDES FOR PAYMENT OF INTEREST ON CERTAIN UNPAID INSURANCE BENEFITS. (BDR 57-1013)

Motion to DO PASS by SENATOR HERNSTADT.  
Seconded by SENATOR BRYAN  
Vote: All in favor except SENATOR YOUNG abstained.

A.B. 29 PROVIDES CRITERIA FOR MANAGEMENT, RATES AND EXAMINATION OF PUBLIC UTILITIES. (BDR 58-25)

Motion to amend and DO PASS by SENATOR YOUNG.  
Seconded by SENATOR ASHWORTH.  
Vote: All in favor of amend and do pass except  
SENATOR BLAKEMORE.

Mr. Clark Guild discussed telephone language with  
the Committee.

Amendments: Include all public utilities and rate  
making on line 10, page 2.

Motion made to amend original amendment to add:  
"Telephone companies" and rate making on line 10,  
page 2, by SENATOR HERNSTADT.  
Seconded by SENATOR YOUNG.  
Vote: Unanimous.

A.B. 590 REGULATES PRACTICE OF SOCIAL WORK. (BDR 54-1388)

Motion to amend and DO PASS by SENATOR YOUNG.  
Seconded by SENATOR BLAKEMORE.  
Vote: All in favor of amend and do pass except  
SENATORS HERNSTADT and ASHWORTH.

Amendment: Excludes chapters on psychologists,  
marriage counsellors. Delete privileged communica-  
tions. Chairman to get a review of this enactment,  
S.B. 450 and A.B. 599.

A.B. 181 REQUIRES ONE WEEK WAITING PERIOD BEFORE CLAIMANT IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION BENEFITS. (BDR 53-351)

Mr. Lou Paley, AFL-CIO, addressed the Committee on  
this bill. There was extensive discussion. Refer  
to Tape 2 and 3. See Exhibits offered by Mr. Paley  
(attached).

Mr. Larry McCracken, Employment Security Department,  
discussed Mr. Paley's suggested amendments and the  
bill in general. Refer to Tape 2 and 3 for full  
discussion. Discussion based on voluntary quit,  
savings under the bill and waiting periods.

Senate

SENATOR YOUNG moved for the adoption and passage of A.B. 181 with the McCracken amendment. Seconded by SENATOR CLOSE.  
Vote: Unanimous.

Amendment: Language on McCracken amendment is to include voluntarily leaving most recent employment without good cause "if so found by the Executive Director".

S.B. 280 REQUIRES DISCLOSURE OF REASON FOR DISCHARGE OF CERTAIN EMPLOYEES AND PROHIBITS CHARGES AGAINST CERTAIN EMPLOYERS' EXPERIENCE RATING RECORDS WHEN BENEFITS ARE PAID. (BDR 53-882)

This bill was discussed at length with Mr. McCracken and Mr. Jack Hiatt. Refer to Tapes 3 and 4. See memo from Mr. McCracken attached.

SENATOR HERNSTADT moved to indefinitely postpone. Seconded by SENATOR YOUNG.  
Vote: All in favor except SENATOR ASHWORTH.

A.B. 406 PROVIDES FOR EXTENSION OF UNEMPLOYMENT COMPENSATION BENEFITS TO CERTAIN PUBLIC, AGRICULTURAL AND DOMESTIC EMPLOYEES. (BDR 53-692)

Mr. McCracken discussed with Committee.

Motion to DO PASS on second reprint by SENATOR BRYAN. Seconded by SENATOR YOUNG.  
Vote: Unanimous - SENATOR BLAKEMORE absent from the room when vote taken.

See memos from Mr. McCracken attached.

A.B. 457 PERMITS USE OF REAL PROPERTY AS COLLATERAL FOR INSTALLMENT LOANS. (BDR 56-1141)

Messrs. Bob Beach and George Angel addressed the Committee.

Motion to amend and DO PASS by SENATOR ASHWORTH. Seconded by SENATOR YOUNG.  
Vote: Unanimous - Senator Bryan absent from the room when vote taken.  
Amendment: Taking out CPI.

Senate

A.B. 564 REDUCES AGE REQUIREMENT FOR BAIL AGENTS AND SOLICITORS. (BDR 57-1649)

Motion to DO PASS by SENATOR BLAKEMORE.  
Seconded by SENATOR YOUNG.  
Vote: Unanimous - Senator Bryan absent from the room when vote taken.

A.B. 606 CHANGES MAXIMUM AMOUNT OF COMPENSATION WHICH MAY BE USED TO DETERMINE INDUSTRIAL INSURANCE PREMIUMS. (BDR 53-1484)

Motion to DO PASS by SENATOR HERNSTADT.  
Seconded by SENATOR ASHWORTH.  
Vote: Do Pass - all in favor except Senators Blakemore, Young and Wilson.

A.B. 628 EXCLUDES HELICOPTERS USED ON CONSTRUCTION PROJECTS FROM REGULATION AS PUBLIC UTILITIES. (BDR 58-1531)

Motion to DO PASS on this bill by SENATOR HERNSTADT.  
Seconded by SENATOR YOUNG.  
Vote: Unanimous.

A.B. 594 CHANGES STATUTORY TERM "WORKINGMEN" TO "EMPLOYEES". (BDR 53-1447)

Motion to DO PASS by SENATOR HERNSTADT.  
Seconded by SENATOR YOUNG.  
Vote: Unanimous.

A.B. 71 INCREASES MINIMUM WAGES FOR EMPLOYEES IN PRIVATE EMPLOYMENT. (BDR 53-146)

Refer to Tape 5 for Committee discussion.

There was an original motion to kill the bill by Senator Ashworth and seconded by Senator HERNSTADT.  
Vote: Senators Ashworth and HERNSTADT voted yes.  
Motion failed as all others voted no on the kill motion.

Motion to amend and DO PASS by SENATOR BRYAN.  
Seconded by SENATOR HERNSTADT.  
Vote: Unanimous.

Amendment: 15% differential between minor and adult. Expiration of power of commissioner to increase as of January 1, 1979. If the Federal minimum wage increases and if the Labor Commissioner exercises his discretion to increase, then there is a 15% differential.

A.B. 638 REVISES STANDARD VALUATION AND NONFORFEITURE PROVISIONS FOR LIFE INSURANCE AND ANNUITIES. (BDR 58-1867)

Discussion of this bill by Milos Terzich with the Committee.

Motion to DO PASS by SENATOR ASHWORTH.

Seconded by SENATOR HERNSTADT

Vote: Unanimous except for SENATOR YOUNG who abstained.

A.B. 602 REQUIRES PUBLIC SERVICE COMMISSION TO PAY CERTAIN SUBSIDIES TO COUNTIES WHICH CONTEST PUBLIC UTILITY RATE INCREASES. (BDR 58-1245)

The Committee decided to withhold action on this bill at this meeting.

A.B. 426 REQUIRES TEMPERATURE-CORRECTED QUANTITIES OF GASOLINE TO BE BILLED TO SERVICE STATIONS. (BDR 52-1386)

A.B. 427 PROVIDES NEW TERMINOLOGY AND DEFINITIONS FOR PETROLEUM PRODUCT FRANCHISES. (BDR 52-1005)

A.B. 428 ALLOWS GASOLINE WHOLESALE AND SERVICE STATION OPERATOR FREEDOM TO SELECT CUSTOMERS AND VARY PRICES OF PRODUCTS. (BDR 52-1387)

The above bills were placed on hold for further study.

A.B. 599 AMENDS PROVISIONS REGULATING MARRIAGE AND FAMILY COUNSELORS. (BDR 54-1467)

Discussed at length by Committee. Refer to Tape 6.

Motion to indefinitely postpone by SENATOR YOUNG.

Seconded by SENATOR ASHWORTH.

Vote: Unanimous.

Senate

A.B. 454 PERMITS PREPAID PROFESSIONAL SERVICES CONTRACTS.  
(BDR 54-917)

This bill passed in Committee on 4/15. This amendment is from Senator Hilbrecht and Mr. Rottman.

Motion to amend and PASS by SENATOR YOUNG.  
Seconded by SENATOR HERNSTADT.  
Vote: Unanimous.

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

Discussed amendment and first reprint of S.B. 281.  
Amendment not satisfactory - a new amendment to be requested.

A.B. 152 CHANGES VARIOUS PROVISIONS RELATING TO STATE DAIRY  
COMMISSION. (BDR 51-101)

S.B. 47 ABOLISHES DAIRY COMMISSION AND FORBIDS MILK PRICE  
FIXING. (BDR 51-501)

A.B. 229 MAKES TECHNICAL AMENDMENT TO SECTION PROVIDING FOR  
INVESTIGATION OF PRICES BY STATE DAIRY COMMISSION.  
(BDR 51-279)

Chairman Wilson told the Committee that on the three dairy bills he and Senator Close were not going to participate. Senator Blakemore will chair.

S.B. 47 ABOLISHES DAIRY COMMISSION AND FORBIDS MILK PRICE  
FIXING. (BDR 51-501)

Motion to KILL by SENATOR YOUNG.  
Seconded by SENATOR ASHWORTH.  
Unanimous vote except for SENATOR HERNSTADT.

A.B. 229 MAKES TECHNICAL AMENDMENT TO SECTION PROVIDING FOR  
INVESTIGATION OF PRICES BY STATE DAIRY COMMISSION.  
(BDR 51-279)

Motion by SENATOR YOUNG to DO PASS.  
Seconded by SENATOR BLAKEMORE.  
Vote: All in favor except SENATOR HERNSTADT who  
abstained. Senate

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A.B. 152 CHANGES VARIOUS PROVISIONS RELATING TO STATE  
DAIRY COMMISSION. (BDR 51-101)

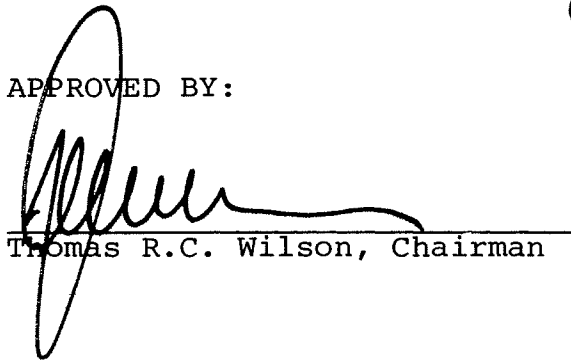
The Committee decided to hold action on this bill pending further study.

There being no further business the meeting was adjourned at 7:00 P.M.

Respectfully submitted,

  
Lyndi Lee Payne, Secretary

APPROVED BY:

  
Thomas R.C. Wilson, Chairman

*Lou Foley*  
*at 181*  
*4-27*

Voluntary Leaving - An individual is ineligible for benefits for the week in which he voluntarily left his most recent employment without good cause, if so found by the executive director, and until he earns remuneration in covered employment equal to ten (10) times the claimant's weekly benefit amount.



*Lou Paley*  
*at 181*  
*4-27-*

Voluntary leaving. - An individual is ineligible for benefits for the week in which he voluntarily left his most recent employment without good cause, if so found by the executive director, and until he earns remuneration in covered employment equal to or exceeding his weekly benefit amount in each of 5 weeks.

## MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT

Senator Thomas R. C. Wilson, Chairman

Commerce and Labor Committee

DATE April 26, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT SB 280

In response to granting the Department Monday to further analyze SB 280, the following is presented for your review.

In summary, I feel that this Bill goes far beyond what may be even its advocates' intention with respect to the denial of benefits to unemployed individuals. It has these main points that I believe are weaknesses:

1. It penalizes a claimant for an act which has no connection for the unemployment for which he is filing claims.
2. It would create bottlenecks for claims adjudicators and appeals hearings to the point where an unnecessary long period of time would pass before a claimant could know to what benefits he was entitled.
3. It would result in a restrictive unemployment insurance program far beyond that of any state in the nation.
4. It would raise serious questions with respect to the determinations meeting the requirements of the Supreme Court in the JAVA decision in making any kind of a timely decision as to an individual's benefit entitlement, and it is very doubtful sufficient administrative funds would be made available.

In more specific terms, this Act lacks clarity, contains contradictions and undefined terms. On Page 2, between line 33 and line 47, and again on Page 4, line 16, the Act refers to a ruling but the ruling is not defined. All other sections of the Bill refer to determinations where a decision is made affecting a claimant's entitlement to benefits.

There is a serious contradiction in this Bill on Page 2, line 47, which states:

"No ruling given a base period employer under the provisions of this section may constitute a basis for the disqualification of any claimant, but a determination by the employment security department under the provisions of this section may constitute a ruling."

We could not consider a determination and ruling as being synonymous because this provision of the Act makes a clear distinction between a determination and a ruling. But considering that provision without a concern as to the meaning of the terms used therein, there is a contradiction between that provision and the one found on Page 4, line 16:

"If a ruling is issued to a base period employer under the provisions of NRS 612.475 that a claimant left his employment with the employer, voluntarily and without good cause, or was discharged because of misconduct in connection with his employment, benefits paid to the claimant shall be reduced in an amount determined by the executive director in accordance with NRS 612.380 and 612.385 in the same manner as if every base period employer were the last employer."

The obvious question which must be asked in considering these two provisions of the Act is "what is the intent of the Legislature?"

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There are serious questions with respect to administration of this Act should it become law. The Act requires that the department make a determination for eligibility for benefits for each claimant with respect to every base period separation. The average number of base period employers in claimants' base periods is about five. In the construction industry and with hotel waiters the average number of base period employers that each claimant has is considerably more than five. Every base period employer would have to be advised of a claimant filing a claim and an opportunity given for the protest of benefits. The claimant would have to be interviewed with respect to the reasons for separation from each base period employer. Opportunity would have to be given to each employer for a predetermination hearing. A determination would have to be made with respect to each separation and either party could appeal that determination. It is conceivable, and not at all unlikely, that six or seven appeals by either the claimant or employer, or both, could be in process and would have to be resolved before the department or the claimant would know just what benefits the claimant was entitled to. Because of the workload generated by this Act in the appeals process, and the necessarily time-consuming process of hearing appeals, it could be months before a claimant knew for sure to what benefits he was entitled. The United States Supreme Court in the case of California Department of Human Resources Development versus Judith Java et al had this to say with respect to the delayed payment of benefits:

"The dispositive issue is the determination of whether Section 1335 of the California Unemployment Insurance Code violates the command of 42 U.S.C. Section 503 (a) (1) that state unemployment compensation programs must 'be reasonably calculated to insure full payment of unemployment compensation when due.' The purpose of the federal statutory scheme must be examined in order to reconcile the apparent conflict between the provision of the California statute and Section 303 (a) (1) of the Social Security Act."

"We conclude that the word 'due' in Section 303 (a) (1), when construed in light of the purposes of the Act, means the time when payments are first administratively allowed as a result of a hearing of which both parties have notice and are permitted to present their respective positions; any other construction would fail to meet the objective of early substitute compensation during unemployment."

"paying compensation to an unemployed worker promptly after an initial determination of eligibility accomplishes the congressional purposes of avoiding resort to welfare and stabilizing consumer demands; delaying compensation until months have elapsed defeats these purposes. It seems clear therefore that the California procedure, which suspends payments for a median period of seven to ten weeks pending appeal, after an initial determination of eligibility has been made, is not 'reasonably calculated to insure full payment of unemployment compensation when due'."

The court in the same opinion held that once eligibility of a claimant had been established, claims could not be withheld pending appeal. The policy in California of withholding any benefits until an appeal had been heard was the basis of the suit brought against California, and finally heard by the United States Supreme Court. Under the present law, benefit overpayments are established because the referees reverse eligible determinations made by the department. The amount of the overpayments that is established would be substantially increased under the terms of SB 280 because of the increased number of determinations required with

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respect to each claimant and each such determination subject to appeal. This Act would make Nevada's unemployment system far more restrictive with respect to benefit payments than any other state statute in the nation. Indiana, for example, has similar provisions in its law, however, the Indiana law provides for requalifying by the claimant by having earnings subsequent to a voluntary quit for a good cause equal to ten times his benefit amount. This requalifying provision would eliminate a number of questionable separations in a claimant's base period. Further, the Indiana Law reduces benefits up to 25 per cent of the claimant's entitlement as compared to 50 per cent in the present Nevada Law and retained in SB 280. Colorado, which has been famous or infamous, for its restriction on payment of benefits has provisions similar to SB 280, but does not adjudicate any issue with respect to the separation from any employer who paid \$500 or less to the claimant in that claimant's base period. Colorado also has a maximum of 12 weeks disqualification as compared to Nevada's 16 weeks.

If we take a case which could very well be typical under the provisions of SB 280 and assume that an employee, after one week's employment quits because of dissatisfaction with the work, and goes to work for another employer and after two weeks of work is fired because he is late for work which generally constitutes misconduct, and then works for another employer for a period of twelve months and is laid off for lack of work, the question must be asked, does either of the separations early in the claimant's base period have any relevance with respect to the claimant's unemployment for which he files a claim for benefits? While the separation which caused his unemployment for which he filed a claim was not of his doing or which he couldn't control, his total benefit entitlement achieved by working uninterruptedly for a period over a year would be reduced from 26 weeks to 8 weeks, after a delay of 22 weeks because of the two disqualifications.

If our concern is with the base period employers that he quit and who would be charged for benefits which he might be paid, the charges to these employers under Nevada's experienced rating process would be limited to a few dollars.

Because of the increased administrative costs with respect to SB 280 and the difficulty that we could experience in obtaining the necessary resources for administration, we must face the possibility of being required to administer this law with inadequate staff and consequently poor administration.

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MEMORANDUM

STATE OF NEVADA  
EMPLOYMENT SECURITY DEPARTMENT

Senator Thomas R. C. Wilson, Chairman  
Commerce and Labor Committee

DATE April 27, 1977

FROM Lawrence O. McCracken, Executive Director

SUBJECT California's Action on Federal  
Legislation

We have obtained information from our Regional Office in San Francisco regarding the actions taken by the California Legislature with respect to Federal legislation which is contained in AB 406.

There is no indication that California is not going to pass conforming legislation to implement the Federal law requirements in California. A bill providing for that is presently before the California Legislature.

There has been a suit filed by an association of local governments holding that this legislation is state mandated and because it is state mandated, the state legislature should provide the funds to pay the costs. There is present California law which requires the State of California to pay the costs of any legislation mandated by the State Legislature affecting local governments. So far as our Regional Office could inform us, this suit would in no way influence the legislature in passing conforming legislation.

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