

Date: Jan. 29, 1979

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Members present: Chairman Banner
Mr. Bennett
Mr. Brady
Mr. Bremner
Mr. Fielding
Mr. Jeffrey
Mr. Robinson
Mr. Webb

Members absent: Mr. Rhoads

Guests present: See attached list

Chairman Banner called the meeting to order at 3:01 p.m. He stated the first bill for the committee is AB 84. Mr. Banner explained this bill is the end result of a number of people working all year on a Nevada Industrial Commission study.

Chairman Banner called on Assemblyman Joe Dini, chairman of the subcommittee to study the administrative procedures followed by the NIC, to give his report.

Assemblyman Joe Dini reported that as a result of a resolution passed by the last session of the Legislature, the subcommittee conducted hearings in Carson City, Reno and Las Vegas; and a special delegation went to Salem, Oregon to discuss the benefits and problems of the three-way system of coverage. As a result of the hearings, the study done by representatives of the insurance companies, and a comparison of a three-way system with Nevada's exclusive stand fund, several recommendations were developed.

A copy of the report Mr. Dini read to the committee is attached to these minutes as Exhibit "A".

Mr. Dini concluded his report by saying that he felt this bill is all-inclusive, and that all recommendations were put into one bill. He also stated he felt the bill looked solid.

Chairman Banner asked if there were any questions.

Assemblyman Robinson, being a member of the subcommittee, asked why, when they went through all the hearings, nothing was said about the heart provision. He only came across it at the final meeting of the committee in which the report was to be adopted. He wanted to know how the heart bill recommendation got into it.

Mr. Dini said it was the ruling of the chair that it dealt with the subject matter of the study. He explained that while he and Assemblyman Jacobsen were discussing some procedures involving firemen's heart disease bill, that it entered into the discussion and that it didn't take long to talk about it.

Mr. Dini went on to explain that one of the most important things is the procedures -- that speeding up the procedures makes the difference. Also, that one of the biggest gripes was that payments are not received on time, or their appeals process breaks down. He said that NIC submitted the bill to Stanford Research Institute for hearings there. He expressed hope that the committee allow them to submit the results of their hearings before taking final action on this report.

Mr. Dini further commented that the employee-employer participation represented at the extensive hearings held in Las Vegas was the best he'd ever seen.

Chairman Banner said he felt the big part of the draft of this bill is the drawing up of the section on self-insurance. He feels this part overlays almost everything in the act. He went on to explain that there are 38 different sections of NRS that are touched on and that the subject matters are so varied. There is the heart bill, the hearing procedures, the quaint handling, the industrial attorney, and self-insurance. Mr. Banner felt it was difficult to know where to begin; that it should be taken apart, piece by piece, and study each subject as an individual measure. Seeing there was a good representative group, that the committee should start taking testimony, beginning with the self-insurance portion of the bill. He asked if there was anyone who wished to speak on the pro side of self-insurance to testify; and that if there was no employer interested in self-insurance that the bill would be re-drafted taking out everything in reference to self-insurance.

Roland Oakes, Associated General Contractors, and a member of the Labor Management Advisory Committee asked to speak on the SRI. He explained that because of the controversy over NIC, they felt it would be helpful to the legislators and to all Nevadans to get someone with impeccable integrity, outside of Nevada, to make an objective analysis of our system. He said he checked with major insurance companies and found they felt the SRI people were tops, and would do an excellent job.

Mr. Oakes said he would like the committee to wait until the report comes in. He thinks it will be objective. He said he'd like to see someone tell us what's wrong, what we should do to improve our system.

He went on to say the only thing he understands in representing the construction industry is that our rates are about a third of what they are in Oregon. Our benefits are probably 5th or 6th in the U.S. compared to Oregon. He feels if we're doing something wrong, let's correct them. If we have one of the best systems in the country, let's not change it for the sake of change. He urged the committee not to take any action on this legislation until they receive the report.

Assemblyman Jeffrey asked when was the SRI study commissioned by the NIC. Mr. Oakes wasn't certain, but thought it was either in October or November.

Chairman Banner said the committee spent the whole season. He said the self-insurance part came from the management group -- primarily from the hotel industry in southern Nevada. He was disappointed that the people who helped with the bill didn't come in to give their input at this hearing. He said the committee will process this bill, that he was not going to wait until March for the NIC report.

Claude Evans, secretary-treasurer of the Nevada AFL-CIO asked the committee to not wait until March 15. Overall, he thinks it is a good bill; that the few problems in it are minor.

Chairman Banner asked Assemblyman Jeffrey if he had any comments.

Assemblyman Jeffrey said that NIC and the Labor Management Advisory Committee has had a year and a half to work on it, and that they should bring in experts, facts and figures and be prepared to do it now -- not until March 15.

Chairman Banner asked Assemblyman Bremner if he had any comments.

Assemblyman Bremner said he would prefer to wait until the committee had a couple of bills to compare it with. He thinks NIC may have other bills.

Richard Lance, The Gibbens Company of southern Nevada informed the committee that he had a discussion with Mr. Anton last week in regards to bringing up his people for today's hearing. He said the reason they were not up here was because he thought this bill would not be discussed in the first meeting; that they didn't think they would be going into testimony on the first day.

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David Miller, Reno Chamber of Commerce, said he feels the SRI study will come out with numbers that will enable people to make decisions as to what is good and what isn't, and what we want -- dollarizing it. He said he didn't have the numbers to be able to recommend to his committee to discuss what the impact is upon the state or the employee. He said he had broken out 16 separate items in the bill, all of which are inter-related.

Mr. Banner asked who commissioned the SRI study.

Mr. Miller said he believed it was the Labor Management Committee.

Assemblyman Webb said he could not help but concur with Mr. Miller and Mr. Oakes. He said he was not part of the study group, therefore he was interested in the subject. Mr. Webb said he had a lot of constituency concerned about the NIC. His feelings were somewhat biased, therefore he would like to see the independent study, and would like to wait for it.

Assemblyman Jeffrey asked why, after all this time, the figures for the fiscal impact are not here now for the committee to work with.

Assemblyman Robinson said he had a fiscal note on it.

Chairman Banner called on Karvel C. Rose of NIC.

Karvel C. Rose of NIC stated not all the fiscal impact data is coming from the SRI; some actuarial information regarding costs are attributed to the various sections of the bill. Responding to Assemblyman Jeffrey's question, Rose said NIC attempted to get the report by 2/15.

Assemblyman Jeffrey said that didn't answer his question as to where the figures are for the fiscal impact of AB 84 which is needed to work with now.

Mr. Rose replied that SRI is not identifying the multitude of functions required, but is supposed to identify the costs of fiscal impact.

Assemblyman Robinson stated the interim committee study report was out in October and asked when NIC began to analyze fiscal impact of it. Mr. Rose replied the preliminary data was provided for the actuary approximately 2 or 3 months ago.

Chairman Banner reiterated the committee has got to move, to do something. He feels there are parts of the bill that they could work on.

Bob McPherson, Director of Personnel, City of Las Vegas, spoke on employers' standpoint. He stated they endorse self-insurance. He said they would also like to see guaranteed insurance, which is not in the bill. He reported the City of Las Vegas had, in the past 3 years, found that \$331,000 of their money was retained by NIC after claims were paid out. He feels self-insured employers should not have to pay more than the 10% pro rata cost of running NIC. He also wants the retroactive account left out, and that it should be a separate bill.

Assemblyman Dini recommended not to split the bill at this point. He pointed out there are people present who are qualified to speak regarding the procedures recommended on the report. The appeals officer could speak on section 17. He would also like to hear someone who had something against the testimony.

Daryl E. Capurro, Nevada Motor Transport Association and Nevada Auto Franchise Dealers Association, was concerned over the impact on employer contributions. He represents small businesses and urged the committee to wait and consider the study.

Richard Turner, Ralston Purina Company in Sparks, Nevada pointed out they would like to see self-insurance provision available. His concern is that there is no indication of what it will cost them. He compared 11 other states where they have branch plants and found Michigan is the only state that has a higher premium.

Patty Becker, State industrial attorney who represents claimants, would like to see other portions of the bill discussed between now and March 15, if the committee waits. These would be: the separate funding for her office, the new hearing procedures, etc.

Chairman Banner then called on the appeals officer to comment on the section dealing with his office.

Richard Bortolin, NIC appeals officer, stated he was not consulted on the draft of Sections 16 and 17. He drafted substitutes to the sections and supplied copies to the committee. A copy of the draft is attached to these minutes as Exhibit "B".

Assemblyman Michael FitzPatrick remarked the posting of half a million dollars bond is ridiculous, and feels it is not helping small businessmen who really need the relief. He feels there is no relief in Nevada as far as workmen's compensation is concerned.

Mr. Banner replied there will be a carrier bill.

Assemblyman Jeffrey explained in detail what the subcommittee had done. He agreed with Mr. FitzPatrick that this bill is not helping small employers, but felt concern for what happens to working people in the state.

Richard Lance, The Gibbens Company, representing the large employers of southern Nevada, expressed concern over the appeals process, and would like to see changes in sections 12 through 17. He would like to know how they arrived at the \$500,000 bond figure; that the size of the bond should be based on the financial ability of the company.

Warren Goedert, representing the Nevada Trial Lawyers Association, commented it might be easier to pursue AB 84 with a number of bills. He assured the committee they are not opposed to self-insurance. Regarding the appeals process, he feels determinations should be simplified and decisions made faster. He also expressed concern over section 23 concerning rehabilitation. He feels the rehabilitation program of NIC should be scrapped; that it served mostly as a job placement; that it should be given to the State Rehabilitation Department where it belongs.

Chairman Banner asked whether sub-section 2 had any value. He replied it would have considerable value if the words "attending physician" were included in it. Mr. Banner asked Mr. Goedert if he would write some amendments, and Mr. Goedert said he would.

Chairman Banner asked if any of the AFL-CIO people wanted to talk about lump sum.

Julius Conigliaro, Federated Firefighters of Nevada, wanted to talk about firemen. He expressed their objection to section 58, the repeal of NRS 617.457. He felt if this bill passed they would be saddled with a bill that does not meet their needs. He said their opposition is based on the fact that the bill is specifically structured for the police department.

David Gamble, Nevada Trial Lawyers Association commented there are several sections of the bill that do not require information from SRI. He expressed his concern over the long delays in processing claims which puts hardship on the claimants who have no other income when not allowed to return to work. He said the best way to approach this bill is to break it up into many bills.

Chairman Banner concluded this portion of the hearing. The meeting adjourned at 4:33 p.m.

Respectfully submitted,

Sylvia Mays
Sylvia Mays, Assembly Attache

LABOR & MANAGEMENT COMMITTEEGUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>	<u>IF YOU WISH TO SPEAK</u>	
		<u>Pro</u>	<u>Con</u>
(Please print)			
Bob Reese	Ralston Purina Co.		
DAVID R. GAMBLE	Nevada Trial Lawyers Assoc		
Barbara Bailey	Nev Trial Lawyers		
Patty Becken	State Industrial Atty		
Charles King	Central Telephone Co		
Claude Ware	STATE AFL-CIO		
Robert H. Turner	Ralston Purina Co.		
THOMAS F. CONNEELY	Alliance of American Farmers		
John R. Crowley	LCB		
Fred Huerby	Nevada Hospital Assoc		
Will Drees	Las Vegas Police Officers		
PAUL DE LOREY	FED. FIREFIGHTERS of NEV		
HAR G. CURTIS	N.I.C.		
KARVE C. ROSE	NIC		
JAMES S. HORGAN	NIC		
Ernie Dawson	N.I.C. L/M		
William Carter	Nevada General Contractors		
Julius CONIGLIARO	FEDERATED FIREFIGHTERS		
BOB McPHERSON	City of Las Vegas		
CHUCK KING	CENTRAL TELEPHONE		
Scott Baker	Insurance Div.		
DON HEATH	INSURANCE DIV.		
Bob Warren	New. MINING ASSN.		

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST (~~Non-Speakers~~)

NAME (Please Print)	REPRESENTING
DAVID L. MILLER	Reno CHAMBER OF COMMERCE
George Pinski	Reno " " "
Jim Jager	New Independent Ins. Agent
Richard James	The Granger Co. Inc.
Bob Reese	Rabston Purina Co.
R.H. Turner	Rabston Purina Co.
Dale Goodman	CARPENTERS Local #971
Charles Evans	AFL-CIO
Fred Hillery	Nevada Hosp. Assoc.
Daryl E. Capurro	NEVADA MOTOR TRANSPORT ASSN. NEVADA FRANCHISED AUTO DEALERS ASSN.
Robert F. Gunn	Same as above
Richard Bertolin	Appeals Officer
Mae Hoffhause	Sec. to Appeals Officer
Jim Wadhams	Commerce Dept
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I. INTRODUCTION

The Legislative Commission's Subcommittee to study the Administrative Procedures followed by the Nevada Industrial Commission and Alternative Methods of Coverage was formed as a result of the diverse proposals before the 59th session of the Nevada legislature to permit private insurance carriers to write workmen's compensation insurance in this state and modify certain practices and procedures of the commission.

The subcommittee conducted hearings in Carson City, Reno and Las Vegas and a special delegation visited Salem, Oregon, to discuss the benefits and problems of a three-way system of coverage.

As a result of these hearings, the study done by representatives of the insurance companies, and a comparison of a three-way system with Nevada's exclusive state fund, several recommendations were developed which the subcommittee submits to the legislature as part of this report.

II. ADMINISTRATIVE PRACTICES

1. Complaints of Employees.

Employees were generally critical of the practices of the Nevada industrial commission regarding evaluation of their injury, delay in hearings, and approval of surgical procedures.

Employee representatives suggested an extension of coverage for heart conditions to all employees, an increase in benefits for those claimants, or their dependents, who suffered injury before 1973, lump sum awards, permanent partial disability coverage under the occupational disease provisions and freedom to change treating physicians without prior approval of the commission.

2. Complaints of Employers.

Employer complaints dealt with premium rates and the classification upon which these rates are predicated, the reserving practices of the commission, status of the claim of an injured employee and the subsequent injury fund.

Employers generally felt they would be better off under a three-way system of coverage featuring a state fund, self insurance and private insurance.

III. ALTERNATE METHODS OF COVERAGE

Representatives of the American Insurance Association, representing stock insurance companies, and the Alliance of American Insurers, representing mutual insurance companies, offered to

undertake a feasibility study, without charge, and serve as consultants for the provision of SCR 39 relating to alternative methods of coverage.

The subcommittee accepted their proposal on the grounds that the representatives would be the best informed source, and such a study would provide the insurance companies with the necessary information to determine whether they could compete in the Nevada market. The report was submitted on May 10, 1978, and concluded that private insurance companies could compete in the state under certain conditions. (Appendix A.)

The subcommittee heard from representatives of the independent insurance agents of the state in support of permitting private carriers to write workmen's compensation insurance in Nevada. They argued that the increased premium costs would be offset by dividends and retrospective rate decreases to employers who maintained a low accident history, and that innovative selling techniques such as single policy packaging of all risks, and safety engineering to decrease accidents, would benefit the employers of this state. They also thought a monopolistic state fund was unresponsive to both employers and claimants and contrary to the free enterprise system.

IV. AGENCY PARTICIPATION

The Nevada industrial commission, the state industrial attorney and the state appeals officer were represented at the hearings and statements were made in their behalf.

The commission suggested that permitting private insurance companies to write workmen's compensation coverage would result in a general increase in rates to include the higher administrative costs of a profitmaking entity. These costs include commissions for agents, loss adjustment expenses, profits and taxes. Because of higher administrative expenses the minimum premium for coverage would increase and, according to the commission, place a heavier burden on the bulk of Nevada employers.

The commission further pointed out that it was developing and carrying out plans such as self-rating and retrospective rating which would provide more flexible coverage to the larger employers of the state.

The state industrial attorney and state appeals officer proposed that their offices each be budgeted independently from the commission to remove any stigma of commission control. In addition, further procedural changes were suggested to improve the hearing process.

V. COMPARISON OF OREGON SYSTEM

After receiving the report of the insurance associations recommending a competitive system, the commission furnished the subcommittee with data from the neighboring states of Oregon and Arizona which have comparable economies and had changed to a three-way system in recent years.

Oregon, which changed from an exclusive state fund in 1965, is experiencing some of the highest rates in the nation while paying benefits which appear to be only average in comparison to other states. Although competing with private carriers, the state insurance fund still writes most of the workmen's compensation insurance in Oregon.

Because of these facts, Oregon's system was examined by a delegation of the subcommittee and discussions were held with members of the state insurance fund (SAIF), the chairman of the workmen's compensation department, representatives of the insurance industry, employers and the legislature.

The discussions were helpful and provided insight into some of the hazards of a hastily conceived plan of reorganization of the delivery system for workmen's compensation as well as the benefits of a competitive spur provided by the three-way system.

VI. OPPOSITION TO FEDERAL LEGISLATION

The members of the subcommittee believe that proposed legislation before Congress entitled "National Workers' Compensation Act of 1978" (S3060), is unnecessary and does not provide a suitable alternative to administration of workmen's compensation by the states.

Therefore, the subcommittee records its opposition to the measure.

VII. RECOMMENDATIONS

The subcommittee recognizes the need to provide the employers of this state with alternative methods of coverage but it is not of the opinion that the entry of private carriers into the field of workmen's compensation insurance at this time is in the best interest of all concerned.

The subcommittee was concerned about the true interest of private carriers in entering the field. It also questioned whether the market was sufficiently large to maintain itself in the event of an economic crisis, such as that which caused the exit of many medical malpractice insurers in recent years.

The state has experienced rapid economic growth and there is indication that this growth will continue. With such growth

a more lucrative insurance market exists as a result of more jobs and larger payrolls.

With this growth there is a corresponding need to restructure the industrial commission to accommodate the increased volume of claims and provide for the transition from an exclusive state fund to a system which permits private carriers to write workmen's compensation insurance should the need arise.

The specific recommendations and the proposed legislation respond to this need by:

1. Permitting certain employers to become self insured under the supervision of the commissioner of insurance.
2. Revising the hearing procedure.
3. Requiring a review of any proposed rate change by the insurance commissioner.
4. Ordering a compliance audit by the legislative auditor during the next interim between legislative sessions.

In addition to more flexible forms of coverage such as retrospective rating and self rating plans instituted by the commission, the following recommendations will benefit employers by:

1. Allowing a reduction from otherwise applicable rates of 5 percent for the employer who institutes an approved safety program.
2. Extending coverage under the subsequent injury fund to an employer if the employee misleads him as to a prior injury by denying the injury or failing to report it on a written application.
3. Requiring the commission to accept or deny a claim within 90 days after the first report of injury.
4. Providing for an area in which claim files may be inspected and copied.
5. Requiring a medical finding of physical compatibility with a proposed rehabilitation program.
6. Requiring the commission to employ account representatives to call on employers and review rates, claims and reserves.

Employee benefits and coverage are enlarged by:

1. Extending coverage for heart disease to all employees.

2. Providing compensation and benefits for a permanent partial disability as a result of an occupational disease.
3. Establishing a retroactive benefit fund to equalize the benefits for accidents occurring before July 1, 1973.
4. Permitting an employee to select a new treating physician one time without commission approval.
5. Allowing a lump sum payment of up to 25 percent for any disability in excess of 12 percent.

REQUESTED CHANGES

Section 16

Subsection 1: Any aggrieved party may appeal a decision of the hearing officer or a review of the commission which modifies or reverses a decision of the hearing officer by filing a notice of appeal with the appeals officer within 60 days after the decision or review is filed.

Subsection 2: Any notice of appeal filed with the appeals officer shall be accompanied and have attached to it, a copy of the Nevada Industrial Commission's final decision being appealed. Within 7 days after a notice of appeal is filed the appeals officer shall set the matter for hearing within 60 days.

Subsection 3: Each party to the original hearing and his designated representative, if any, must be given at least 10 days notice of the hearing.

Section 17

Subsection 3: The appeals officer hearings shall be transcribed and where the matter has been submitted for decision, the transcript shall be filed with the appeals officer within 30 days after the date of the hearing.

Subsection 4: The appeals officer shall render a decision within 60 days after the matter has been submitted for decision.

Subsection 5: The appeals officer may issue necessary and proper orders and may affirm, reverse or modify the decision of the hearing officer or of the commission and issue any necessary and proper order to effectuate his decision.

Exhibit "B"

ASSEMBLY

AGENDA FOR COMMITTEE ON LABOR AND MANAGEMENT

Date MON. , FEB. 12 Time 3:00 P.M. Room 316

Bills or Resolutions
to be considered

Subject

Counsel
requested*

- | Bills or Resolutions
to be considered | Subject | Counsel
requested* |
|--|--|-----------------------|
| A.B. 238 | Revises guidelines for determining suitability of work under unemployment compensation law. | |
| A.B. 239 | Changes basis for withholding unemployment compensation where employee is discharged for crimes in connection with employment. | |
| A.B. 241 | Provides for agreement as to what constitutes employee misconduct for purposes of unemployment compensation. | |



ASSEMBLY

AGENDA FOR COMMITTEE ON LABOR AND MANAGEMENT.....

Date TUES., FEB. 13 Time 3:00 P.M. Room 316.....

Bills or Resolutions to be considered	Subject	Counsel requested*
A.B. 240	Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits and narrows eligibility requirements.	
A.B. 242	Reduces weekly benefit of unemployment compensation.	
A.B. 243	Reduces requirement for confidentiality of records involving unemployment compensation.	

*Please do not ask for counsel unless necessary.