

Members present: Chairman Banner
Mr. Bennett
Mr. Bremner
Mr. Jeffrey
Mr. Robinson

Members absent: Mr. Brady
Mr. Fielding
Mr. Rhoads
Mr. Webb

Guests present: See attached list

Chairman Banner called the meeting to order at 3:10 p.m.

A.B. 170 - Requires annual physical examination of employees exposed to toxic substances.

Robert Gagnier, executive director of the Nevada State Employees Association, stated this bill was drafted at their request. The intent of the bill was to provide annual physical examination for employees exposed to toxic substances. He feels it is necessary for those who are frequently exposed to toxic materials to have annual physical examination -- the same as provided in the heart law -- to determine at an early stage whether they are suffering from any ill effects from toxic substances. One of the problems is that there is no definition of toxic substances.

Mr. Banner asked if there was a sample of what brought up the bill.

Mr. Gagnier replied that the Materials and Testing division of the Highway Department use some wild substances and could have bad effects. He claimed they have a high number of people that end up with cancer. Last week two employees of that lab were hospitalized due to an accident.

Ralph Langley, Department of Safety, OSHA, did not speak for or against the bill, but suggested some changes in wording. A copy of the suggestions is attached to these minutes as Exhibit "A".

Karvel Rose, NIC, stated some basic problems with the bill. He feels it does not define specifically the type of exposures, or the degree of the examination, and the levels of toxicity. He said the OSHA rules and regulations have a very broad interpretation of the requirements.

Daryl E. Capurro, Nevada Motor Transport Assn., and Nevada Franchised Auto Dealers Assn., opposed the language in lines 8 through 10 of subsection 2 in Section 1, for the same reasons as outlined by Mr. Karvel -- that there is no definition. He feels it should be tied to what the federal government considers to be toxic substances or harmful agents.

Assemblyman Jeffrey asked whether we ever got a definition of what the federal law says; and when these examinations are required, and under what circumstances. He wanted to know why this bill is not necessary.

Mr. Capurro replied that the list of toxic substances is revised as quickly as new herbicides are developed.

Mr. Jeffrey then queried that if he were an employee exposed to toxic substances for a long period of time, what would he do to get an examination paid for by the employer, under federal law.

Mr. Capurro replied that in their industry they have certain requirements to be met and certain procedures to follow in handling the matter in the event of exposure. These regulations are required by the Department of Transportation. He said he could not answer for other areas outside of transportation.

Jack Kenny, Southern Nevada Home Builders Association, suggested they get a copy of OSHA regulations. He feels the OSHA regulations were tough enough to require a physical examination. He also suggested to hold off until a copy of the regulations is reviewed.

A.B. 41 - Permits self-insurance of workmen's compensation risks; modifies administrative procedures.

Chairman Banner explained he introduced this bill to help the Policemen's Association. He stated his reasons for seriously looking into the heart bills. Mr. Banner pointed out a particular case wherein the statute was narrowly construed and resulted in a ruling in favor of the claimant. It was established that a stressful nature did exist. He urged the group to do something about recognizing the problem; that nothing has been done in the area of heart disease; and that if it is not taken care of here it will eventually be handled by judicial decisions, rather than by legislation. Mr. Banner emphasized again his support of the bill.

Charles L. Wolff, Nevada State Prisons, appeared in support of the bill. He suggested a change on line 13 to read: "Nevada Department of Prisons," and that the first word "uniformed" be deleted. He stated they have been evaluating their employees, and that their medical department determined they were involved in the development of stress on the job. About 20% of their employees now have EKG's with their physicals.

Richard Bortolin, NIC appeals officer, commented on his various observations. He supports deletion of the clause, "caused by extreme overexertion in times of stress or danger," because of the difficulty of showing causal relationship. He submitted a report on "Stress, Strain and Heart Disease" published by the American Heart Association. This document is filed with the Chairman of this committee. Mr. Bortolin gave as an example a policeman who has served 25 years in New York, then came to Nevada for six months and has a heart attack.

Chairman Banner asked whether the amendment changes the presumption intent in the bill. Mr. Bortolin replied he felt the amendment lessens the degree of evidence necessary for the standards to qualify for compensation. Mr. Banner then asked if Mr. Bortolin had any recent heart cases where he ruled in favor of the claimant. Mr. Bortolin replied he did -- a fire chief in the Lake Tahoe area, and the chief of police in Reno.

Karvel C. Rose of NIC, who is not in favor of the bill, quoted a legislative bulletin from the Connecticut Conference of Municipalities dealing on heart disease and hypertension benefits. This bulletin stated: "There is no medical evidence whatsoever that workers in the police and fire occupations have a susceptibility to heart disease and hypertension which is any greater than that of the general population," as testified by a Dr. Ostfeld. The bulletin stated this testimony was not disputed by any medical authority. (A copy of the bulletin is filed with the Chairman.)

Bob McPherson, City of Las Vegas personnel director, also representing the Nevada League of Cities, reported they have been in touch with Dr. Ostfeld. This gentleman has had 20 to 30 years of research in the area of heart disease, and has indicated his willingness to come and testify on the matter.

Chairman Banner suggested to Mr. McPherson that he make arrangements for a special hearing and bring in all those interested, and coordinate with people who have different viewpoints.

A.B. 230 - Includes heart diseases as occupational diseases under certain circumstances and requires employee contributions for occupational disease coverage.

Assemblyman Robinson was called upon to explain how the bill came about. He stated the main objection has been the tax on industrial insurance. People did not always get the stress that caused the heart disease from their jobs, but were attributed to other conditions. He believes that more money could be generated by having both sides contributing which would cut down the amount of premiums.

Date: Feb. 6, 1979

Page: 4

Claude Evans, secretary-treasurer of the Nevada AFL-CIO, claimed Nevada has the worst heart coverage and workmen's compensation in the nation. He would prefer to have the heart coverage paid by the employer. He strongly opposes the premiums being shared by the employee.

Don Hill, Safety Compensation Energy, Inc., spoke in favor of the bill. He stated they have evidence that the work of NIC is satisfactory. He said he can't see why any employee in Nevada should have to pay compensation because they want protection from heart attacks.

Norman Anthonisen, representing the Southern Nevada Personnel Association, a member of the NIC committee, and Las Vegas Chamber of Commerce, objected to the terminology "arteriosclerosis." He claimed it is the worst case of age discrimination law.

Karvel C. Rose, NIC, pointed out that under the new section allowing treatment of a disability which is related to the employment and is not treatment of the pre-existing heart disease, that this would cause difficulty in allocation of cost determination.

Jule Conigliaro, representing Firefighters Association, opposed the bill because it repeals NRS 617.457 which concerns policemen and fire fighters. They want this section maintained.

Chuck King, Central Telephone Company, testified against A.B. 230. He stated that in many instances heart disease may be accelerated by poor diet, or off the job pressures. He feels these types of occurrences should be covered in the employee's health insurance policy.

There being no further testimony on the heart bills, the Chairman concluded the hearings at 4:27 p.m.

Respectfully submitted,

Sylvia Mays
Sylvia Mays, Assembly Attache

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST

<u>NAME</u>	<u>REPRESENTING</u>	<u>WISH TO SPEAK</u>	
		Yes	No
(Please print)			
N. G. ANTHONISEN	SUMMA CORP	X	
J. CONIGLIARO	FEDERATED FIRE FIGHTERS OF NEV		X
PAUL DE LOREY	FEDERATED FIRE FIGHTERS OF NEV		X
DON HILL	S.C.E. Inc	X	
LES GOROTH	NEV. FIRE CHIEFS, NEV. FIREMENS		X
RALPH LANGLEY	DEPT OF SAFETY	X	
Tommy Kitcher	C.W.A		X
Bob Allen	State Employees Assn		✓
KARVEL C ROSE	NIC		
JOHN S. MILLER	KENNECOTT		✓
CHARLES L. WOLFF, JR	PRISONS	✓	
Patty Becker	State Industrial Attorney		✓
Jim Fayer	Needs appeal		✓
E & Newton	NTA		maybe
Co Karcher	Therapist		✓
Chuck Dury	Central Telephone Co	230 ✓	
Jim	State		
Robert C. Batoron	CWA		X
Daryl E. Caputo	NEVADA MOTOR TRANSPORT ASSN NEV. FRANCHISED AUTO DEALERS ASSN	X	
Bob Gagnier	SNEA	X	
Albert J. Truda	CITY OF NORTH LAS VEGAS		X
Bob W. Pearson	City of Las Vegas		
CLAUDE EVANS	AFL-CIO	X	30

Section 1.

1. No comment (NRS 617).
2. Each employee [frequently] exposed to toxic substances or harmful physical agents which are determined by the department to be a serious exposure must submit to any physical examination during his employment. (SUGGESTED WORDING)

COMMENT: Advise deleting "frequently" because a one time serious exposure might also require an examination be performed, i.e. pesticides or asbestos. I feel tying us to frequency would be a mistake and would conflict with NRS 618.295.6 which is very similar in content to this section.

Some standards we have adopted spell out the type, extent, and frequency for physical examination as they relate to specific hazards. (Reference CFR 1910.1000 adopted as Nevada Occupational Safety and Health standards.)

Exploratory examinations, based on unknown causes or circumstances, should not be authorized without a thorough investigation of the facts in the incident.

Serious exposure could be determined by an Industrial Hygienist and/or medical consultation prior to an examination.

NRS 618.365 "Scope of Chapter;... 1. This chapter does not supersede or in any manner affect the Nevada Industrial Insurance Act, the Nevada Occupational Diseases Act or enlarge, diminish or affect in any other manner the common law or statutory rights duties or liabilities of employers and employees under the laws of this state with respect to injuries, occupational or other diseases or death of employees arising out of or in the course of employment." The reference to 617.457 creates a conflict with 618.365.

The use of the phrase "any annual physical examination" can be interpreted too broadly

NOTE: Parts of 617.457 have been moved to NRS 618, specifically 617.457.3 and .4