

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

Members absent: Mr. Bremner
Mr. Rhoads

Guests present: See attached list

Chairman Banner called the meeting to order at 3:08 p.m. He explained the meeting was to consider amendments on AB 238, 240, 241 and 242. He asked that testifiers stay on the amendments, and called on Mr. Newton to explain A.B. 238.

A.B. 238 - Revises guidelines for determining suitability of work under unemployment compensation law. (Amendment No. 126 - Exhibit "A")

Ernest Newton, Nevada Taxpayers Association, read the proposed amendments, saying no changes required on the first paragraph. The second paragraph describes items the executive director of the Employment Security Department is to consider when deciding whether a work offered is suitable or not. It is proposed by this amendment to delete prior earning, length of unemployment and prospects for securing local work in his customary occupation. All material in italics in Sec. 2 on the first page will also be deleted, including the second line on the second page. Sec. 3 on page 2 is amended with more "Daykinisms." The ESD insists that it would be inappropriate and would create a non-conformity issue. It deletes "company" and "bona fide labor."

Chairman Banner asked Mr. Newton what was the meat of the amendment. Mr. Newton replied deleting line 19 on page 1, regarding all material in italics.

Assemblyman Jeffrey asked, now that it is deleted, what does the bill do. Mr. Newton replied it was the meat of the bill and believes that the ESD was able to administer this bill. The only change needed would be that the Department no longer consider the three items: prior earnings, length of unemployment and prospect for securing local work in his customary occupation.

Assemblyman Bennett questioned what the ESD would consider in their determination. Mr. Newton replied they would consider the degree of risk involved to his health, safety, physical fitness, prior training and experience. This would require that a person take a job he is offered for which he may be seriously over-qualified. He couldn't draw benefits, and at the same time turn down a job for which he is over-qualified.

Assemblyman Jeffrey -- as an electrician, and he was offered a job as a janitor, would he have to take that job. Mr. Newton said it was true. He further stated that the ESD is now using that criteria because any electrician that is out of a job has no problem finding a job.

Chairman Banner remarked the amendment did change the bill considerably. He called on Larry McCracken to comment on the amendments.

Larry McCracken, Nevada Employment Security Department, thinks the amendments will accomplish what Mr. Newton stated but did not clearly understand them himself.

Assemblyman Robinson explained that on line 12, the bracketed parts will be retained, and all the italicized parts will be deleted, including line 1 on page 2. The rest of the bill remains the same until the bottom of page two where lines 15 and 16 will be deleted.

Mr. McCracken stated that if the Department is not able to consider an individual's prior earning, length of unemployment or past experience and customary occupation, that it is directly opposite to what the proponents of the bill intended. He can't see where he would be able to maintain that the wages below what the individual previously earned would be suitable work. He is sure the ESD can administer it, but the bottom line would surely be opposite to what the committee believes it will do.

Regarding Sec. 3, lines 11, 12, 13, Par. (c) the words "company" and "bona fide labor" are not a Department or federal requirement. We can't delete those words, he said. He didn't think it will affect the objective of Mr. Newton and those who represent those things be put back into the particular paragraph.

Assemblyman Brady compared this matter with people who go to jail for writing bad checks and still have to pay for them. He said the money is set aside by the employer for an employee when he is employed. Is there anything wrong with the person paying back that money he used when he was unemployed?

Mr. McCracken replied he didn't know the answer, but was willing to do a research on the issue, if necessary.

Assemblyman Robinson commented on the issue, comparing a man paying for fire insurance for years, has a fire, and the insurance company pays the benefits and rebuild his building. As soon as he gets back they'll ask him to pay it back again. Mr. Brady said the only difference on that is that he is paying for insurance out of his pocket for his house, while the employer is putting out money out of his pocket for his employee. Mr. Robinson then said it would be a good thing because once you got the fund built up to a certain point -- if everybody was able to pay it back -- you'd stop paying contributions.

Bill Montgomery, Teamsters #533, commenting on the amendments said it is a bad bill for the working person. If the director does not consider the man's prior earnings, or the fact that he has a pension built up with the Teamsters, and he's waiting to go back to work for a construction company, this man is not able to go back to his trade because you have him working in the casinos. He would then go out of the union list. The bill is going to deny any construction man the right to go back to his trade. Construction work in this State cannot run 12 months a year, especially the basic trades, teamsters, operating engineers., etc. There are approximately 5,000 people in this trade in the area. He pointed out it is a bad amendment to a bad bill.

Assemblyman Robinson asked why is it that a fellow in the building trade who accepts a lesser job when he was unemployed, cannot get back on the top of the list. Mr. Montgomery replied that happens generally in the construction trade. He said any job with the Teamsters is better than \$107 a week from unemployment. He said they don't arbitrarily take the man off the list; it's against the law. He can go back on the list, but if it is difficult to get hold of him on that day he is needed, they just go down the list and get the next available person.

Mr. Jeffrey offered to answer Mr. Robinson's question. He said that in his local, as an electrician, they only have two classifications -- apprentices and journeymen. Once he becomes a journeyman he can't go back and be an apprentice.

Mr. Robinson said the way IBW hiring hall operates, if he goes outside of the craft, the criteria is pretty much the same as Unemployment. You got to be ready, able and willing and available to go to work, and you have to be out of work. If you're working in the casinos, you're not out of work, and you are not eligible to be on that list. He gave for an example the problem they had in Las Vegas when they had all the big overtime jobs in the test site. There were guys coming from various states that would sign the book, then go back to their states and go to work. When the business office called them, they were not there. What they did was to adopt another rule whereby anybody that signs the book would have to sign it every Friday, or lose their place.

Mr. Robinson then referred back to the question of what happens to the individual who took a lesser job and lost his place on the book, with no way to get back on it, unless he quits the lesser job. Mr. Montgomery pointed out he'd be penalized 10 weeks because he quit his lesser job to get back to his trade. He went on to say that in the construction business you'd be lucky if you get two weeks work during early spring; then you'd be laid off 4 to 6 weeks. If you're lucky you get a job in May -- when it starts to get into full swing again.

Harold Ritzer, Stage Hands Union in Las Vegas, commented on the hiring hall procedure. He said they maintain a large pool of qualified employees, for the benefit of the employer. Their referral system is operated on a non-discriminatory basis. If a person is not available, regardless of what his excuse maybe, if he's unavailable for work he goes on the back of the list. This puts him behind some 900 people. So he would have to refuse a position that is for less than what he is normally worth. He stated this amendment is ghastly.

A.B. 240 - Requires 1-week waiting period before claimant is entitled to receive unemployment compensation benefits and narrows eligibility requirements. (Amendment \$129, Exhibit "B")

Mr. Newton presented Amendment #129, deleting all of line 3. The committee noticed there was a mistake. Mr. Newton said what the amendment intended was to delete the present Paragraph 5. It was amended two years ago, and it was a mistake; that it was improperly drawn and adopted in the last day of the session. No one in the Department (ESD) knows what it means. The request of the Department and NES Council is to take out the temporary disability feature (in the original bill) contained in Par. 3, Section 1. This amendment only takes out Par. 5.

Mr. Newton then asked if the people present who wanted to discuss the bill could talk about it. Assemblymen Jeffrey and Robinson both agreed the discussions should stick to the amendments, as the agenda indicated, then go back to other discussions if time permitted.

A.B. 241 - Provides for agreement as to what constitutes employee misconduct for purposes of unemployment compensation. (Mr. Newton's draft amendment, Exh. "C")

Mr. Newton remarked there was no amendment prepared by the bill drafter, The ultimate result of the bill would be to impose the same procedure for a person who was discharged for misconduct as is now imposed for a person who quits without cause. As it is now, the claim examiner makes a decision on the severity of the misconduct, and can deny benefits of up to half of what the employee would otherwise receive -- from one to 15 weeks.

A.B. 242 - Reduces weekly benefit of unemployment compensation.
(Amendment #125, Exhibit "D")

Mr. Newton said there is a mistake on this amendment. The deletion should be lines 6 through 11, not 6 through 9. The bill is designed to prevent the so-called double dipping, and provides that a person's unemployment benefit be reduced by a pension payable on behalf of a base period employer. The original bill provides a benefit paid by NIC, but there are other workmen's compensation insurance besides the NIC. Consequently, the bill drafter included "workers' compensation insurer". He said, however, that the purpose of the amendment was to delete the last two lines concerning computation to the nearest multiple \$1.

Mr. Jeffrey remarked that what it looked like would be if he went and paid for private disability policy, and it pays, then unemployment compensation wouldn't pay. It says from a workers' compensation insurer -- meaning anybody that sells insurance. Mr. Newton replied that worker's compensation insurer is wrong. It requires workmen's compensation insurance that is employer paid. He further explained that the reason they used the word worker's compensation insurance, instead of naming NIC specifically, is because there are workers crossing state lines that are covered under workmen's compensation in California and would be drawing unemployment benefits in Nevada.

Mr. Jeffrey went on to query that with the amendment what would the bill actually do. Mr. Newton replied it would reduce unemployment benefits by wage replacement payments, which were paid for by the base period employer. Mr. Jeffrey asked what the rationale was for just the base employer, why not everybody. Mr. Newton replied that only the base period employee had an interest in the protection of unemployment compensation. Mr. Jeffrey went on to ask why was it more offensive to have double dipping from NIC or Social Security, than it is from military pensions, union pension, etc. Mr. Newton said it is the separation of jobs. If a person earned a pension in a previous job, the general idea is that he requalified under our unemployment compensation. Mr. Jeffrey asked why is that not the same as Social Security. Mr. Newton replied that, in effect, a man who receives Social Security resigned from the labor force.

Mr. Newton further explained you could earn social security while earning your base period wage. But after you got to base period earned, then you go back to social security. He said there are people who have drawn unemployment benefits, state employee retirement benefits, social security and military pension -- all confirmed.

Assemblyman Jeffrey said that you have to go back deeper than the Unemployment Security law, because we're saying here if a guy loses a limb and is on NIC pension, he is denied unemployment benefits. Whereas a military man who lost an arm doesn't. The guy with the lost arm has limited employment opportunities and all he has is his pension. He is treated differently than the military retiree in the same position.

Mr. Robinson said what is bothering him is the fact that regardless of where the money comes from, the employer still puts into the pot for the worker. These workers should then be put into an exempt status, and employers do not have to make contributions in their behalf because they're not going to draw from it. He said he would go for that kind of reasoning. Generally, every one gets what they paid for. In this case, they're getting what the boss paid for.

Claude Evans, AEL-CIO, said he wanted to add to the comments made by Mr. Jeffrey. Under this amendment when a guy is injured he is paid 40% when he losses a leg. That's about \$200 a month. He goes back to work, perhaps for a lower classification than what he was injured at, and then he gets laid off. That \$200 a month he gets for losing his leg would be against his unemployment benefit.

The second part of the bill that is objectionable to them is the pension allowance payable by, for and on behalf of the base period employer. In many crafts these pension plans are negotiated where money is taken out of their salaries to buy the pension plans. So, technically, it is the employee's money. He said they are in opposition to all four bills and to their amendments.

Assemblyman Jeffrey said one thing that needs to be brought up is the amendment to A.B. 241. He explained it would put us in the same category with people covered under this bill in the same position as that which happened with the voluntary quit. This is a much more severe penalty than what is now on the books. It is not just for conformity. There is a lot of difference in earning 10 times the benefit amount of working 10 weeks, than being disqualified X number of weeks for misconduct. The last time we adopted the 10-week provision we didn't really say that people are penalized 10 weeks benefits. We said they have to earn 10 times the benefit amount of work 10 weeks. What happened then was that anybody that quit a job could not draw unemployment. I want the committee to know that we understand that, he said. The committee must be aware of what this amendment really does.

David Addison, Gibbens Co. of Las Vegas, commented on A.B. 241, referring to Assemblyman Jeffrey's reference to a guy being fired because he was a slow worker. He said this type of person would not be disqualified. Disqualification is only for misconduct, such as drinking on the job, theft, embezzlement, assault, etc. Mr. Jeffrey asked about insubordination. Mr. Addison replied that would be misconduct. It covers a broad subject, but that is why you have the Employment Security Department to determine what it is. He said what you have right now is -- if a person quits to take a vacation, goes to Europe a couple of months, and comes back, he is disqualified for 10 times his weekly benefit amount. However, the man that embezzles, the guy who takes drugs, rapes or assaults another employee, he is only delayed benefits for 11 weeks. He said the last legislature did a tremendous job in correcting a lot of problems, but one loophole slipped through. The disqualification is not the same for voluntary quit, as it is for wilfull misconduct.

Mr. Addison referred to Mr. Evans remarks regarding workmen's compensation and permanent disability benefits, and said it was incorrect. He said he didn't read that in this bill. He reads that workmen's compensation means you collect 66-2/3% of your salary, and 50% of your salary on unemployment. Right now they have employees making more money by collecting both unemployment and NIC benefits at the same time. He said they corrected that in California years ago.

Assemblyman Jeffrey pointed out that Mr. Addison is talking about an amendment that the committee does not have. If he is talking about wage replacement, it is about permanent and partial disability. Mr. Addison said all he is testifying about is the fact that a person can collect NIC benefits, unemployment benefits; and he can gross more, tax free, without working. That is no incentive for anyone to go back to work, he said.

Assemblyman Robinson explained that compensation for injuries is called compensation -- not a pension. If you're going to be totally disabled, it is compensation.

Bill Montgomery testified on A.B. 240, said he is on unemployment right now. He was reinjured, and if it is taken away from him what is he to do? The amount is just to defray expenses. He said the amendment is very bad and crucial.

Bill Champion, MGM of Las Vegas, said he is speaking for both MGM's -- Reno and Las Vegas, representing employers. He asked to comment on A.B. 240 and A.B. 241.

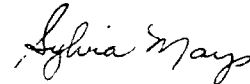
A.B. 240 - All contract he has written have the seniority recall. If you laid somebody off he has seniority going back to the job. In their agreement, it allows the employr to rehire someone if he is employed in the last six months, without going through the list. He said the unemployment fund is employer-financed fund. He said he can't see why employers have to subsidize

the construction industry.

A.B. 242 - double dipping. He said he is not in favor of denying an employee either workmen's compensation or unemployment benefits. People who are unemployed through no fault of their own have no problem. He would like to see the employer protected from unnecessary costs, not to deny the worker what is due him. He went on further to say a person can be disabled from his regular occupation, but he can do some other job that is available.

There being no further discussion, Assemblyman Fielding moved to adjourn, seconded by Mr. Bennett. Meeting adjourned at 4:41 p.m.

Respectfully submitted,



Sylvia M. Mays
Assembly Attache

1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Assembly	AMENDMENT BLANK
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	AMENDMENTS to	Assembly
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>		Joint
Date:		Date:		Bill No. 238	Resolution No.
Initial:		Initial:		BDR 53-990	
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	Proposed by	Committee on Labor and
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>		Management
Date:		Date:			
Initial:		Initial:			

Amendment No 126



Amend section 1, page 1, line 12, by deleting open bracket before "In" and inserting open bracket before "an".

Amend section 1, page 1, line 13, after "vidual," and inserting "] a person,".

Amend section 1, page 1, line 14, after "training," and inserting "and".

Amend section 1, page 1, line 16, by deleting "] Except as".

Amend section 1, pages 1 and 2 by deleting lines 17 through 23 on page 1 and line 1 on page 2.

Amend section 2, page 2, by deleting lines 15 and 16.

o: E & E
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Bill ✓

Date 2-20-79 Drafted by JSP:sl

1979 REGULAR SESSION (60TH)

ASSEMBLY ACTION		SENATE ACTION		Assembly	AMENDMENT BLANK
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Date:		Date:		Bill No.	Joint Resolution No.
Initial:		Initial:		240	
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	BDR	53-989
Not concurred in	<input type="checkbox"/>	Not concurred in	<input type="checkbox"/>	Proposed by	Committee on Labor and
Date:		Date:			Management
Initial:		Initial:			

Amendment N^o 129



Amend section 1, page 2, by deleting line 3 and inserting:

"4. [Except as provided in subsection 5, he] He has within his base period."

Amend section 1, page 2, line 18 by inserting open bracket before "Any".

Amend section 1, page 2, by deleting lines 20 and 21 and inserting:

"wages paid during a claimant's base period.] He has been unemployed and otherwise eligible for benefits for".

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Date 2-20-79 Drafted by JSP:sl

AMENDMENT TO AB-241

Delete lines 2 through 22, and substitute in lieu thereof:

612.385. [An individual shall be disqualified] A person is ineligible for benefits for the week in which he [has filed a claim for benefits if he has been] was discharged for misconduct connected with his work by his most recent employing unit, or by his next most recent employing unit, 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 10 weeks. [if he has not earned at least five times his weekly benefit amount following the work immediately preceding his most recent work, for misconduct connected with his work, if so found by the executive director, and for not more than 15 consecutive weeks thereafter occurring within the current benefit year, or within the current and following benefit year, as determined by the executive director in each case according to the seriousness of the misconduct. The total benefit amount, during his current year, shall be reduced by an amount equal to the number of weeks for which he is disqualified multiplied by his weekly benefit amount provided no benefit amount shall be reduced by more than one-half the amount to which such individual is otherwise entitled.]

ASSEMBLY ACTION		SENATE ACTION		Assembly AMENDMENT BLANK	
Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>	AMENDMENTS to	Assembly
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Lost <input type="checkbox"/>	Bill No. 242	Joint
Date: <input type="checkbox"/>	Date: <input type="checkbox"/>	Date: <input type="checkbox"/>	Date: <input type="checkbox"/>		Resolution No. _____
Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	Initial: <input type="checkbox"/>	BDR 53-987	
Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Concurred in <input type="checkbox"/>	Proposed by	Committee on Labor and
Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>	Not concurred in <input type="checkbox"/>		Management
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Amendment N^o 125



Amend section 1, page 1, by deleting lines 6 through 9, inclusive, and inserting:

"less the amount payable to him as a pension allowance payable by or on behalf of a base period employer as defined by NRS 612.025, a social security benefit or a wage replacement allowance from a workers' compensation insurer."

To: E & E
LCB File
Journal
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Date 2-20-79 Drafted by JSP:sl

LABOR & MANAGEMENT COMMITTEE

GUEST LIST

IF YOU
WISH TO SPEAK

NAME

REPRESENTING

Pro Con

(Please print)

<u>NAME</u>	<u>REPRESENTING</u>	Pro	Con
ELLEN DECHER	SELF		
ARTHUR D. DECHER	Independent Practice		
Michael Ryan	ESD		<input checked="" type="checkbox"/>
Harold Braddock	ESD		<input checked="" type="checkbox"/>
Tom Brien	ESD		
Robert F. Quinn	Nas. motor transport Assn. Nas. Franchised Auto Dealers		
Robert C. Butera	C.W.A. Local 9413		
ROBERTA KETCHER	C.W.A. LOCAL 9413		
Calvin Ferrell	Paul Tahoe		
Leta Valentine	Sahara-Tahoe		
Carole Vilarda	McC. Retail Assn.		
Elmer H. Stodnick	Self		
CHUCK KING	CENTRAL TELEPHONE		<input checked="" type="checkbox"/>
John Bruns	Springfield, Mass		
Robert A. ...	Newport Assoc		
Wendy Holdison	Edwards		
Wendy ...	Edwards		
Wendy ...	Edwards		
J.D. Taylor	MGM		<input checked="" type="checkbox"/>
N.C. ANTHONISEN	SUNMA		<input checked="" type="checkbox"/>
James ...	Emp. Soc. Council		