

MEMBERS PRESENT:

Chairman Banner
Vice Chairman Thompson
Mr. Bennett
Mrs. Cafferata
Ms. Foley
Mr. Hickey
Mr. Jeffrey
Mr. Rackley
Mr. Rhoads

MEMBERS ABSENT:

None

GUESTS PRESENT:

See attached guest list

WITNESSES TESTIFYING:

Chuck King, Nevada Self Insurers
Joe Nusbaum, Chairman, NIC
G. P. Etcheverry, Nevada League of Cities
Jim Berry, City of Reno
Will Keating, Assistant Executive Officer of Retirement System
Corey Creasey, Administrative Services, Douglas County
Tom Stuart, Employers Representative to NIC
Michael Verrilli, Clark County Fire Department

Chairman Banner called the meeting to order at 5:05 P. M. and announced to the committee that they would hear testimony on AB-137 continued from February 23, 1981.

AB-137: Makes various changes in Nevada Industrial Insurance Act and Nevada Occupational Diseases Act.

Chuck King, Nevada Self Insurers, opposes this bill. He told the committee that he wanted to go through the bill page by page. On page two he does not support the \$50,000 as a lump sum. On page three he pointed out the wording "might cause renewal or recurrence of the original disability" as too loosely defined. On page five he disagrees with the wording "the psychological distress and emotional exhaustion" as opening a total disability claim to the diagnosis by a psychiatrist.

Mr. King summarized his testimony by expressing his concern that if the above provisions were to be legislated and then someday ruled upon by a Supreme Court Justice that it is discriminatory to apply to only policeman and firefighters, it could then apply to all employees and could be difficult to administer and

create a provision that would be easily taken advantage of by unscrupulous persons.

Joe Nusbaum, Chairman, NIC, told the committee he also wanted to go through the entire bill but that some of it had just been covered by the previous witness. Page one, line 15 would allow the attending physician to determine the disability. He stressed that many attending physicians do not know how to use the AMA guides which are specialized and also may not be objective. The NIC physicians make this determination now and some claimants object to this. NIC has seven medical advisors who do most of the determination. Mr. Nusbaum said their system may not be perfect but it is objective and leaves out judgment kinds of decisions.

In regards to the psychiatric portion he said that by law the NIC is restricted to injuries and diseases which are defined as leading to psychiatric problems. They have paid these kinds of claims but not those that indicate that the problem began with psychological distress.

This bill would permit payment on both injury and disease, the NIC presently does not double up on injury and disease claims.

Mr. Nusbaum expressed the thought that the present heart and lung bill would stand up under an equal protection law but this proposed bill might not, thus presenting legal problems.

G. P. Etcheverry, Executive Director, Nevada League of Cities, opposes AB-137, and agrees with Chuck King's testimony.

Jim Berry, Personnel Director for the City of Reno, read his prepared statement to the committee, attached hereto as EXHIBIT A. Opposes AB-137.

Corey Creasey, Administrative Services, Douglas County, agrees with the testimony read to the committee by Jim Berry. He asked for clarification on basically the same points as stressed in Mr. Berry's testimony, particularly in the psychological distress areas. Mr. Creasey told the committee that there is difficulty in defining what normality is and psychological testing would have to be given regularly as are physical examinations, both prior to employment and periodically thereafter.

The committee took a five minute recess and reconvened at 6:05.

Will Keating, Assistant Executive Officer of the Public Employees Retirement System gave the members of the committee copies of his written testimony, attached hereto as EXHIBIT B.

He told the committee that the Retirement System has no position on AB-137 but directed the attention of the committee to the particular portions of concern as pointed out in his prepared testimony.

One particular item the Retirement System wanted added was on page 8, after line 5: "Sec. 20. The provisions of this act shall not have an affect nor establish a precedent regarding Chapter 286 of the Nevada Revised Statutes."

Tom Stuart, Employers Representative, to the NIC, representing several cities and counties. He cannot support the bill with the language in it with reference to the emotional and psychological distress. He also questions the provision with regard to the "average monthly wage" and envisions this as opening Pandora's Box.

Michael Verrilli, Clark County Fire Department, spoke in favor of AB-137; he wrote most of the bill. Mr. Verrilli told the committee that the bill is not trying to violate basic precepts; physicians would make the decisions.

He went on to stress that special legislation for fire and police officers is a matter of fact for the State of California; for the last 30 years, they have recognized that they have special occupational hazards which requires special legislation. Firefighters must have the ability to function at 100 percent because if they have to perform with one lung removed or have lost 20 percent function of a ventricle in the heart, they are more susceptible to injury.

Mr. Verrilli said that it has been his experience that NIC in house physicians have a tendency to rate on the lesser side of the injury rather than an objective view of the injury. They are generally denied at first and then on appeal, win. This is an expensive process to get these decisions turned about. Treating physicians have developed a history with the patient, thus in rehabilitation would be the best one to evaluate it. He stressed that compensation should be provided for injury and disease if as a result of an injury a secondary problem arises out of the original injury. In reference to wages, special duty wages are paid to police and fire officers such as paramedics, swat teams or hazard duty pay for motorcycle operation. Lifetime reopener on the claim provides that if the injury, job connected disability, continued to bother the employee at some later date, there should be a concrete written section to enable the claimant to obtain treatment for that original injury. The retroactive clause would enable claimants who were turned down at their original attempts to obtain disability compensation on the first level to appeal those decisions now.

Ms. Foley moved the meeting adjourn and the motion was seconded by Mr. Thompson. The meeting adjourned at 6:35 P. M.

Respectfully submitted,



Janice Fondi
Committee Secretary

LABOR AND MANAGEMENT COMMITTEE

GUEST LIST

Date: _____

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO
	Commission of Industrial Relations	X		
William R. ...	Federated Industries of Nev.	X		
Mike ...	Black County Fire Dept	X		
Will Oress	LAS Vegas Police Officers Union	X		
LARRY IRVINE	Las Vegas Police Protective Assn.	X		
Bill ...	Public Employees Retirement System			AB 137
Joe ...	North ...			
CHUCK KING	DELAND SELF INSURERS		X	AB 131

CITY OF RENO - POSITION ON A.B. #137

Mr. Chairman, Members of the Committee:

I am Jim Berry, Personnel Director for the City of Reno. I have been requested to present the City of Reno's position on the bill presently before you.

The City cannot support nor recommend passage of Assembly Bill 137. In analyzing it, we find it to be a poorly drafted piece of legislation, subject to misinterpretation and predict it will cause a definite financial impact upon the City of Reno, as well as all local government employers.

Our opposition to the bill is in no way a derogation of Police and Fire occupations.

Specifically, we wish to share with you the following information.

The bill provides for psychological disorders and the administration of these to be accomplished under NIC. We think a question arises preceding psychological disorder. It is briefly, "What is the definition of a psychologically sound person?" Everyday, in American courtrooms, one can read where doctors, psychologists, and psychiatrists cannot agree upon the physical, mental, and emotional condition of an individual person. We feel this, in itself, presents serious concerns about this bill.

Next, we cannot understand why police and fire personnel have been singled out for consideration. There are other positions in local government that are subject to hazards and stress comparable to some of those to which police and fire personnel are subjected. For illustration, I would mention animal control personnel, who must not only apprehend all types of animals, but must, as part of their job, put these animals to sleep.

Let us turn for a minute to some statistics in these areas. In the City of Reno, the turnover rate in the Police Department for the past three years has averaged 16%. In the Fire Department, this rate is 3%.

During the same corresponding period, Animal Control has experienced an 80% turnover in their personnel. Additionally, the average Reno Firefighter has been with the City 12 years, the average Reno Police Officer 7 years. The turnover rates in police and fire do not support the bill before you.

and the
Animal
Control
Officers
3 1/2 years.

Next, it is noticed on the printing of the bill, the answer to the statement: "Fiscal Note: Effect on local government," is NO. This is totally untrue. The retro activity provisions of the bill alone would require immediately additional expenditures from the City for compliance. If implemented, the bill would increase the City's contributions to NIC. At the present time, the City is paying to NIC an annual sum of just short of \$550,000. In addition, to comply with the Heart and Lung Bill, the City is paying approximately \$45,000 annually for these examinations. The Heart and Lung examination costs approximately \$90 to \$120 per employee. This, I submit, is a substantial sum of money.

The City of Reno is actively administering a vigorous Safety Program. With an annual contribution of approximately \$550,000 to NIC, claims filed for NIC by the City of Reno during the past 12 months total \$271,000. This is a significantly reduced sum over prior years and we attribute this to the success of our Safety Program. Our Safety Officer handles safety, compliance with OSHA, and investigates all injuries incurred on duty by City employees.

Our new City Manager is a strong advocate of employee training. During the past month, 50 mid-management and 20 top-management personnel have attended 2-day workshops which, as part of the program, covered stress, including the causes and the means to recognize and alleviate stress in both professional and personal relationships. He is interested in seeing that all City employees attend some training sessions at which stress will be part of the training.

The provisions in the bill to award 66 2/3% of an average monthly salary, for a partial disability or in the case of a payoff of \$50,000, will serve to increase the costs of the local government employer immediately, due to the retroactivity provision. At this time, it is hard to project what future years may require financially from local government employers.

The next comment we wish to make concerns the provision that claims filed under this bill may be reopened at any time during the life of the claimant. This is tantamount to providing many "bites of the apple," and through persistence should work to any employee's benefit. To illustrate this, when an employee suffers a heart attack, NIC denies the first claim. Employees then procede to establish their case using medical testimony for appeal, and the appeal is usually decided in favor of the employee, and NIC processes the claim. This provision is a cause of great concern to us. It would permit employees who are no longer employed to systematically and periodically attempt to reopen their case.

Next, we would like to comment on the employee's physician making final determination. From experience, we have, through abuse of sick leave and NIC, on occasions requested an employee to be examined by a physician chosen by the City. On some occasions, this procedure has brought abuse to an end and has served both the employee and the employer.

The provision to have this bill administered by NIC is another area of concern. We are reluctant to recommend NIC administration in the event this bill becomes law.

We do not feel that employers are insensitive to the problems of thier employees. The City of Reno provides unlimited accrual of sick leave for usage when necessary, we administer an active Safety Program, and we are establishing training sessions for employees addressing the subject of stress and emotional problems in the work place. Through these efforts,

we feel that local government is in a better position to provide remedies to the problems enumerated in Assembly Bill 137.

In closing, we are confident the committee, upon hearing all testimony, and after deliberation, will reach a sound decision on the future of this bill.

Members of the Committee, we thank you.

March 2, 1981

VERNON BENNETT
EXECUTIVE OFFICER

STATE OF NEVADA

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



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PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 WEST NYE LANE
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200

TESTIMONY PROVIDED TO THE ASSEMBLY LABOR & MANAGEMENT COMMITTEE
REGARDING ASSEMBLY BILL 137 ON FEBRUARY 23, 1981

I am Vernon Bennett, Executive Officer of the Public Employees Retirement System of Nevada. The System has no position regarding the intent of AB 137. However, we are concerned regarding the phrase, "and eligible for retirement", which appears on page 2, line 6 and page 5, line 35. This phrase could be interpreted to guarantee retirement eligibility for a person in these circumstances. We have discussed the matter with Mr. Bob Haley at NIC who has advised that this phrase has no application to the laws or operation of NIC. We are also concerned that some of the definitions such as police officer on page 1, lines 3 through 8; language on page 4, lines 32 through 34; page 5, line 50; and, page 6 lines 1 and 2 may, in some way, affect the permanent and total disability program provided by PERS. There are currently laws which prohibit NIC and PERS from jointly paying more than 100% of a person's average compensation in total benefits. Therefore, there is some interface between the two programs. We respectfully request that the Committee consider amendments as follows:

1. On page 2, line 6, delete the words "and eligible for retirement".
2. On page 5, line 35, delete the words "and eligible for retirement".
3. On page 8, after line 5, add the following: Sec. 20.
The provisions of this Act shall not have an affect
nor establish a precedent regarding Chapter 286
of the Nevada Revised Statutes.

Adoption of these amendments will eliminate any concern which PERS may have regarding AB 137.

We will be pleased to answer any questions you may have regarding this matter.

c.c.: Mr. Joe Nusbaum, NIC
Mr. Bob Haley, NIC

VB:bb

ASSEMBLY

AGENDA FOR COMMITTEE ON.....LABOR.....

Date MONDAY MARCH 2 Time 5:00 P.M. Room 316

Bills or Resolutions
to be considered

Subject

Counsel
requested*

THIS HEARING IS A CONTINUATION OF THE FEBRUARY 23rd MEETING ON:

AB-137

Makes various changes in Nevada Industrial
Act and Nevada Occupational Diseases Act.

*Please do not ask for counsel unless necessary.

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