

MEMBERS PRESENT: Chairman Westall
Vice Chairman Kovacs
Mr. May
Mr. Vergiels
Mr. Stewart
Mr. Rhoads

MEMBERS ABSENT: Mr. Bremner
Mr. Brady
Mr. Rusk

GUESTS PRESENT: Joe E. Nusbaum, NIC
Dorothy Kosich, Society of Professional Journalists
Wae M. Farren, Reno Newspapers
B. Gibb, NIC
Pete Kelley, Nevada State Press Association
Bernie Mikell, Sutro Co.
Jim Wadhams, Department of Commerce
Pat O'Driscall, President Northern Nevada Chapter
Society of Professional Journalists
Richard Bryan, Attorney General
Senator Close
Senator Wilson

SB 11 - Defers normal effective date of laws and joint resolutions following passage.

Senator Close spoke in support of this measure. He said there was a problem. Fiscal matters would have to take effect on July 1. That is not a problem that cannot be overcome. It is not fair to have people relying upon legislation when it has been changed and they have no way of determining that. It opens potential malpractice situations, potential law suits of property and money; many times judges who are required to perform in civil and criminal areas aren't aware of changes made by the legislature so they make rulings based upon erroneous laws. He suggest that this be changed and September seems an appropriate time.

In response to a question from Mrs. Westall, Senator Close said fiscal matters would still be effective on July 1.

Mrs. Westall said a problem would be created for all state agencies simply to help the attorneys, to which Senator Close replied it was not the attorneys but the civilians effected by this measure. People now must make decisions based upon defective date of laws, and it is the client, not the attorney, who is hurt. The Legislative Counsel Bureau can resolve the fiscal matters. Perhaps the fiscal year should be changed from September to September. He thinks it is unwise to have laws becoming effective less than 30 days after they are passed. People are entitled to know the Nevada Law and this is in some cases impossible.

SB 387 - Provides for design and display of legislative pennant.

Mrs. Westall said Senator Jacobsen, sponsor of the measure, had indicated that in lieu of the penant as requested, because there

had been no appetite for this, that the legislative flag be flown at all times proper to display flags. The legislative flag now flies only when the legislature is in session. Mrs. Westall said she thought this was a good idea.

Mr. Vergiels moved to amend the bill as suggested; Mr. Kovacs seconded the motion. Mrs. Westall, Mr. Kovacs and Mr. Vergiels voted in favor of the motion. Mr. May and Mr. Stewart voted "No". Motion failed.

ACR 36 - Directs legislative commission to study effects of placing "MX" missile system within State of Nevada.

Mr. Schofield, Assemblyman, Clark County Assembly District 12, sponsor of the measure spoke in support of a study of the "MX" system. He said this would have the greatest impact of anything that has ever been proposed for the state. There are a number of measures before the legislature pertaining to the "MX" - AB 640, SB 381 and another proposed study, ACR 46. There are nineteen areas covered in ACR 36 and Mr. Schofield feels that all possible aspects are included. He distributed to the committee a memorandum from Robert E. Erickson, Research Analyst to support his position as to the worthiness of the measure. (EXHIBIT A)

Mrs. Westall said the measure did not specify the number of persons on the committee and Mr. Schofield answered this would be determined by the commission. The Chairman emphasized the need which was to establish guidelines for estimating the cost of the study for appropriation purposes.

Mr. Schofield said he would recommend that no more than seven and possibly five persons be assigned to the study committee.

Mr. Rhoads asked how a measure just considered, AB 640 related to ACR 36. He was informed that AB 640 established a state department of the "MX" Coordinator. Their function will not be the consideration of the areas encompassed in ACR 36.

In response to a question from Mr. Stewart, Mr. Schofield said SB 381 dealt with local government involvement in the "MX" project. The Governor can discontinue the work specified in the other two measures. The commission could dissolve the study committee established by ACR 36.

Jim Wadhams, Director, Department of Commerce, said they supported the resolutions dealing with the "MX". They have had during the past interim a special MX legislative committee appointed by the Legislative Commission that allows the executive branch of government a contact point with the legislature. The interrelationship of the entities established by various measures dealing with the subject is one of cooperation to deal with every phase at every level without duplication of efforts. Mr. Wadhams explained the duties of each office established by these measures.

Mrs. Westall asked if Mr. Wadhams had a preference to either of the

resolutions introduced for studies.

Mr. May suggested he be allowed to study both measures and combine the best of each into one measure. He would work with the individual sponsors of the measure. They would develop a new resolution with the legislative functions committee indicated as sponsor. This would eliminate the personal controversy. He would do this today.

Mr. Kovacs said there may be personality difficulties but it was his understanding the procedure was to identify as sponsor the one that was first in time. Mrs. Westall informed him there was no set precedent.

Mr. Rhoads agreed with Mr. May's suggestion. He wished also to avoid political controversy.

Chairman Westall appointed Mr. May as a committee of one to form a new bill.

Mr. Stewart requested that there be a distrust clause in the new bill in the event the "MX" was not located in Nevada. There were no objections to this suggestion and Chairman Westall so ordered.

Mr. Wadhams commented that there should be one study committee and all information shared between the various committees working on the "MX".

Mr. Schofield suggested that the housing problem be included in the new bill. He wholeheartedly agreed with the proposal of Mr. May, adding the important thing was that a study be made.

P. P. Etcheverri, Nevada League of Cities supported both measures or more importantly than one particular bill, the concept of the study. There are parts of both bills that are very important. They have attended most of the meetings of Senator Blakemore's group who conducted the study during the past interim. There has been much work done and the expertise of persons who worked on it in the past will be needed.

Mr. May requested Mr. Etcheverri sit with his committee when developing a new bill and add his expertise as to the areas that should be covered.

SCR 54 - Directs legislative commission to study procedure of Nevada law governing access to public books and records.

Richard Bryan, Attorney General said SCR 54 was requested by their office. The Nevada public record law, NRS 239.010 says that all public records shall be made open and public unless some other provision of law specifies that they are confidential. This law is totally unworkable. Unworkable in the sense that there is no definition of what a public record is. The various state courts from across the country have given a wide diversity of interpretation to what a public record is. The Nevada Supreme Court has not

specifically addressed the question. There has been much controversy. Over the past two years, in trying to respond to dozens of inquires they have indicated they would put together a draft of a public records law and the was done. It was submitted to various members of the media and other interested persons. It was obvious from the comments on the draft that it was impossible to submit to the legislature a bill in this session. The comments are extensive, the concerns from the public prospective in terms of the right of the public to have access to public documents is a compelling and and legitimate one. There are legitimate concerns in terms of certain kinds of information being protected by right of privacy, such as medical records. The difficulty for the administrator both at state and local levels, in interpreting the law is that one is faced with two impossible choices. The law provides that if a record is a public record and is not disclosed, the individual faces criminal prosecution. Conversely, if the record is disclosed it may subject the individual administrator to a civil law suit for violating an individual right of privacy. The individual conscientiously trying to administer the legislative declaration of policy has no guidelines and acts at own peril. The present law may have constitutional difficulties because if there are no guidelines a criminal statute is construed most favorably toward the individual defendant and it is quite possible a court could declare Nevada's statute unconstitutional because it provides no guidelines. That is why they are suggesting a study commission over the next two years to arrive at a workable law for individuals responsible for public records and those who seek access to that information.

Chairman Westall asked if Mr. Bryan had a recommendation as to the number of members for this committee. Mr. Bryan said there should be a representative from the public, clearly the media, the majority comprised of legislators, perhaps seven members. There is no reason for this to be an unusually large committee. There could be persons serving in an advisory capacity.

Chairman Westall said for someone not a legislator to be a member they would have to be specified in the bill. Mr. Bryan agreed and added if the resolution did not contain that, he would make a suggestion to that effect. He was aware they were in the final days of the session. It is important enough that this measure pass, that it not be jeopardized by subjecting it to the amending process because this is an ongoing problem. It is in the public interest to conduct this study.

Dorothy Kosich, journalist and member of freedom of information committee for the Society of Professionalists said she represented about 35,000 reporters, editors and publishers across the nation. They feel it is very important to have a study of public records and access to those records, from both the standpoint of the journalist and the public. Files of a personal nature must be protected. Legitimate files should be available without long delays created by the uncertainty of their status. The public should have access to their files if they request it. It should be specified by law that it will be available within a specified period of time. She cited examples

of lack of knowledge of the agencies on this subject. The public, the journalists and the agencies need clear guidelines on this subject.

In reference to Attorney General Bryan's position regarding delays for amendments Ms. Kosick said they did stress there be a member of the press on that committee and if an advisory group on the study is considered, they request the news media and the public be represented. She stressed that the bill was desperately needed.

Mrs. Westall in clarification asked if she meant they wished representation in the advisory capacity rather than by membership in the committee. Ms. Kosich replied one member of the committee should be a press representative; she thinks the bill specifies "The Nevada State Press Association". They would like more if possible but do not wish the bill delayed. An advisory group to that committee is desirable to provide broader input. The Nevada Press Association tends to represent the publishers. Editors and reporters need more access to the records also. There are several organizations of journalists in the state other than the one named.

Mr. May commented the bill specified "The Nevada Press Association and other associations representing persons who gather and report the news". There is sufficient provisions for additional representatives.

Pat O'Driscall a newspaper reporter from Reno and President of the Northern Nevada Chapter of the Society of Professional Journalists said he was speaking in behalf of local journalists and the general public. Public records at this time are a confusing issue. The law is vague regarding public records with exceptions interspersed throughout. As part of the study they are supporting as suggested by the Attorney General an inventory of the NRS to identify and put into one place all the exceptions. This is not a frivolous study; it is badly needed. It would be to everyone's best interest in that it would aid in preventing costly law suits and problems for the State as well as the media and the general public. He strongly urges passage. His organization was prepared to work with the legislature.

Mr. May explained the legislators appointed to the committee would receive a salary and per diem. He inquired if the media would be willing to serve in an advisory capacity without compensation. Mr. O'Driscall said he could not speak for all but he felt this was a part of their professional duties. They are expecting to be serving in the role in an unofficial capacity, and they are happy to do it without compensation. The budgeting of per diem and salary monies is not something he thinks journalists would expect nor would except. If they become official members of the committee there will be no difference than if they are in an advisory role.

Ms. Kosich added that travel might be a problem for some of the organizations and suggested allowance of travel expenses.

Mrs. Westall said if they were official members they should receive

the travel and the salary because they should all be present at all meetings.

Mr. O'Driscall assured the committee those appointed to a committee would attend all the meetings because it was to their advantage to do so. If there is any concern about the budget for the participation in the study by the journalists, he urged that it not be considered as a factor because they would serve without compensation. In response to a request from Mr. May he said he would supply a list of names for possible nominees for the committee.

Pete Kelley, representing the Nevada State Press Association said they supported the resolution and concurred with previous testimony as to the need for the study. He offered the full cooperation of his organization.

SCR 65 - Directs legislative commission to study desirability of allowing insurance coverage for workmen's compensation through private insurance carriers.

Joe Nusbaum, Chairman, Nevada Industrial Commission, spoke in opposition to the measure. He summarized his written presentation (EXHIBIT B).

Mr. Kovacs questioned the purposes of two bills mentioned by Mr. Nusbaum, SB 203 and AB 375. He was informed the first dealt with authorization of private insurance and the second bill dealt with self insurance.

Mr. May asked if the results of the study were being prejudged or only if private insurance was not advisable at this time. Mr. Nusbaum agreed to this analysis, adding that he personally thought that at sometime in the future private insurance in the State would be authorized but it was inadvisable at the present time.

Senator Wilson said SCR 65 was passed by the Senate committee because this was a very controversial issue; also they felt they could not competently address the subject matter of the study in their limited time span because of the uncertainty of the market. For two sessions they have been unable to render a judgement on private insurance. They have a great deal of respect for the judgement of Mr. Nusbaum. He has done a very good job as Chairman of the NIC.

SCR 64-Directs legislative commission to study procedures used by department of taxation in central assessment of property.

Chairman Westall requested Senator Wilson speak on this bill because he was a member of the committee that heard the measure.

Senator Wilson responded they had thought the study necessary due to the pressures that would be placed on this activity. Because of the tax package enacted at this session, it was important to process the study. Not very many studies survived the committee but this one did because they felt it had merit.

Mrs. Westall said there was an Assembly measure to study the effects of the tax package and perhaps the two should be blended.

Senator Wilson disagreed but said they both have substance. One is appraisal methods and the other is the impact of the tax package. They are separate subjects and perhaps should be kept separate, but could be combined with the same study committee and remain separate resolutions.

Jim Wadhams, Director of the Department of Commerce, addressing SCR-65 stated his agency regulated insurance and the self-insured employers regulations. Unfortunately in the last two sessions he has sat through many of the debates on three-way insurance. He said he would support the direction of the legislation. Referring to Mr. Nusbaum's testimony, he said it is interesting to hear someone say that competition makes prices rise. He has found studies that effected his agency provided an excellent education in that area for the legislators. Arguments that competition makes prices rise perhaps doesn't carry as much weight with an informed decision maker. Whether the study should be made this interim or the next is a question to be considered, but the issue should be addressed.

Chairman Westall said they had heard all the studies and they would be acted upon at the desk on the floor because there was no longer a quorum. They have not heard SJR-39, SB-10, or AR-26, but those would also be considered at the desk.

The meeting adjourned at 2:20 P.M.

Respectfully submitted:

Marjorie D. Robertson
Committee Secretary

ASSEMBLY

AGENDA FOR COMMITTEE ON LEGISLATIVE FUNCTIONS

THURSDAY

Date May 28, 1981 Time On Room 222
Adjournment

Bills or Resolutions to be considered	Subject	Counsel requested*
<u>A.C.R. 36</u>	Directs legislative commission to study probable effects of placing "MX" missile system within State of Nevada.	
<u>A.C.R. 42</u>	Directs legislative commission to study probable effects of "MX" missile project.	
<u>A.C.R. 50</u>	Directs legislative commission to study effects of measures to provide tax relief passed by 61st session of legislature.	
<u>S.C.R. 54</u>	Directs legislative commission to study provisions of Nevada law governing access to public books and records.	
<u>S.C.R. 64</u>	Directs legislative commission to study procedures used by department of taxation in central assessment of property.	
<u>S.C.R. 65</u>	Directs legislative commission to study desirability of allowing insurance coverage for workmen's compensation through private insurance carriers.	
<u>S.B. 11</u>	Defers normal effective date of laws and joint resolutions following passage.	

*Please do not ask for counsel unless necessary.

ASSEMBLY LEGISLATIVE FUNCTIONS COMMITTEE

LEGISLATION ACTION

E: May 28, 1981

SUBJECT SB-387

MOTION:

Do Pass Amend Indefinitely Postpone Reconsider

Moved By Mr. Vergiels Seconded By Mr. Kovacs

AMENDMENT:

Moved By _____ Seconded By _____

AMENDMENT:

MOTION

AMEND

AMEND

Yes No

Yes No

Yes No

Brady

Bremner

Kovacs

X

May

X

Rhoads

Rusk

Stewart

X

Vergiels

X

Westall

X

TALLY:

3

2

ORIGINAL MOTION: Passed _____ Defeated Withdrawn _____

Amended & Passed _____ AMENDED & DEFEATED _____

Amended & Passed _____ Amended & Defeated _____

ATTACHED TO MINUTES 5/28/81

SB-387

Exh. b. + A

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May 28, 1981

M E M O R A N D U M

TO: Assemblyman Jim Schofield
FROM: Robert E. Erickson, Senior Research Analyst *Bob Erickson*
SUBJECT: Comparison of A.C.R. 36 and A.C.R. 46

Your proposed resolution, A.C.R. 36, is much more comprehensive than A.C.R. 46. Both resolutions call for an interim study by the legislative commission of the probable effects of "MX" on Nevada. Both resolutions also call for a report to be prepared for the 62nd session of the Nevada legislature. A.C.R. 36 goes one step further in also calling for proposed legislation and its fiscal impact.

The matters to be studied are much more comprehensive and detailed in A.C.R. 36 than in A.C.R. 46. Many items are covered in A.C.R. 36 that are not addressed in A.C.R. 46, including law enforcement, public health, transportation, impacts on ranching, and public safety, to list but a few. On the other hand, only housing needs from A.C.R. 46 is apparently not covered in A.C.R. 36.

In summary, A.C.R. 36 may be a better vehicle for the study because it is more detailed and comprehensive in its scope than is A.C.R. 46. If you should wish to expand the scope of A.C.R. 36 even more, I would suggest that you consider adding the following elements if time permits.

1. Need for housing.
2. Authority to transmit recommendations directly to federal, state and local governmental entities and the public during the course of this interim study.

REE:jlc.5.1.ACR36

APPEARANCE ON SCR 65

JOE E. NUSBAUM

NEVADA INDUSTRIAL COMMISSION

In considering the need for a study of the feasibility of private insurance in workers' compensation in Nevada, the Commission believes you should consider the following factors:

Nevada's Premiums, Benefits and Funding

The State Insurance Fund is actuarially sound with money reserved sufficient, in the judgment of professional actuaries, to cover every liability of the fund. Nevada lawmakers can be justifiably proud of this somewhat rare condition.

By any measure, Nevada's benefits are good and Nevada's premiums and administrative costs are low. Nevada's overall premium rates have not increased since 1976. This is a record that many states look to with envy as they see their premium rates increasing year after year and the cost of administration, including heavy costs of litigation, spiraling upward.

As the Advisory Board of Review for NIC commented, Nevada appears to be in the forefront with its rehabilitation efforts to return injured claimants to work as soon as possible. The entire Nevada workers' compensation system with its lifetime reopening and rehabilitation rights provides incentives to return to work. Also, within the last

year, NIC has split out its safety consulting services from its safety regulation functions and has been building a professional staff to provide loss control advice to policyholders.

Size of the Workers' Compensation Market in Nevada

A review of what happened in Arizona after the state was effectively opened up to private insurance may give some indication of what may happen in Nevada but with a much smaller total market in Nevada.

The State Fund in Arizona has 80% of the policyholders and private companies have only 20% of the policyholders. However, private companies have 62% of the premium income and the state fund has only 38%.

If today Nevada had the same breakdown between the State Fund and private insurance as exists in Arizona, NIC would have 22,000 of the 28,000 policyholders but only \$49 million of the \$128 million of premium income. The largest private companies would have premium income in the range of \$2 million to \$10 million annually.

What would be the practical result of this pattern of insurance in Nevada? First, it would have a drastic affect on the ability of NIC to provide services to its policyholders. NIC has only recently attained a level of business that justifies such common insurance business features as a marketing staff to assist policyholders, a communications staff to inform policyholders and claimants of their rights, obligations and benefits and a full-time actuary to do a complete actuarial job within

the agency. NIC would have only \$49 million of premium income to service approximately 22,000 of the 28,000 employers in the state. Private companies would no doubt be serving major employers in Las Vegas and Reno, but NIC would have to provide statewide services and might be the exclusive insurer in the smaller towns and rural areas of the state.

On the other hand, what kind of services can even the larger private carriers provide in Nevada with from \$2 million to \$10 million of premium per year? We believe the only reasonable conclusion is that the service would have to suffer; that much of the service would have to be provided from California or Arizona or some more remote location where full services in such areas as rehabilitation can be adequately staffed.

Initiation of Self-Insurance in Nevada

Less than one year ago self-insurance became a reality in Nevada. Subsequently a number of mainly large employers in the State have been certified to self insure. The Insurance Commissioner is developing a staff to regulate self insurance. Shortcomings or oversights in the original legislation have been identified and legislation has been offered to take care of these deficiencies so that self insurance can function properly under the law. Reporting procedures are under development now between NIC, the Insurance Commissioner and self insureds in order for all insurers to comply with the law in such areas as the prohibition against double payments and the requirement for reconciling payments for subsequent injuries.

There is a good deal remaining to be done to fully incorporate self insurance into Nevada's workers' compensation system. Also, it is too early to reach judgments about the adequacy of the statutes, regulations and administration of self insurance. To consider giving birth to private insurance before self insurance is even out of its diapers, seems to me to be poor family planning.

Reorganization of Nevada's Workers' Compensation System

The Advisory Board of Review created by the 1979 Legislature has recommended a major restructuring of the organization for administering Nevada's workers' compensation, safety and related labor laws. This involves a realigning of state agencies and an internal reorganization of the successor to the NIC, the State Industrial Insurance System, so that it may operate more as an insurance company.

The restructuring will not become effective until July 1, 1982 and, in fact, may require another year before it is fully operational.

We believe the consideration of private insurance before the new structure can be evaluated would be a mistake. By 1983 self insurance will have had three years of operation and the new State Industrial Insurance System will have had one year of operation. A study initiated in 1983 could make a much more meaningful assessment of the 1979 and 1981 legislative changes and, consequently, of the need for private insurance.

Previous Nevada Studies of Private Insurance

The Commission has seen no evidence so far that should change the conclusion that has been reached by every state study on the question of three-way insurance. The 1972 report of the subcommittee of the Legislative Commission recommended against private insurance. The 1978 report of the joint Legislative Commission convened to study the question of three-way insurance, among other matters involving NIC, stated:

"The subcommittee recognizes the need to provide the employers of the 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 1979 report of the Stanford Research Institute said:

"In summary we recommend that Nevada permit self insurance and structure the system to conform with the optimal two-way system defined earlier in this report. We do not consider a three-way system to be appropriate for Nevada at the present time..."

What has changed since these last two recommendations against three-way insurance? The employment growth of previous years has been substantially eliminated by a recession. Self-insurance is in its infancy but has taken about 15% of the workers' compensation market. The State Insurance Fund remains in sound financial shape. A number of

improvements recommended by the Advisory Board and the Legislative Auditor in the administration of workers' compensation are before the Legislature or are under way. None of these factors seem to warrant a new consideration of three-way insurance and, in fact, most argue against another major change at this time.

In conclusion, the Commission believes a study of private insurance in the field of workers' compensation should be deferred until the market in Nevada is large enough to justify expanding beyond self insurance and state insurance and until the initiatives taken by the 1979 and 1981 Legislatures can be evaluated.