

MINUTES OF THE
MEETING OF THE SENATE AND ASSEMBLY COMMITTEES
ON GOVERNMENT AFFAIRS

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
May 5, 1981

The Senate and Assembly Committees on Government Affairs were called to order by Co-Chairman James I. Gibson, at 6:36 p.m., Tuesday, May 5, 1981, in Room 131 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator James I. Gibson, Co-Chairman
Senator Jean Ford
Senator Keith Ashworth
Senator Gene Echols
Senator Virgil Getto
Senator James Kosinski
Senator Sue Wagner
Assemblyman Joseph Dini, Co-Chairman
Assemblyman James Schofield
Assemblyman John DuBois
Assemblyman Robert Craddock
Assemblyman John Jeffrey
Assemblyman Paul May
Assemblyman Donald Mello
Assemblyman David Nicholas
Assemblyman John Polish
Assemblyman Paul Prengaman
Assemblyman Kenneth Redelsperger

STAFF MEMBER PRESENT:

Anne Lage, Committee Secretary

Chairman Gibson explained that the purpose of this meeting was to continue consideration of the issues involved in public employee, public management relations. The committee would consider the mandatory items of bargaining as several of the bills dealt with this issue. Also under consideration would be the Employee-Management Relations Board, the Employee-Management Relations Advisory Committee, the open meeting law, and the fiscal criteria of arbitration.

Mr. Bob Maples, Director Employee Relations Washoe County School District, testified he was concerned with Assembly Bill No. 400. The provision that the Employee-Management

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Relations Board would be limited to hearing only those complaints where there was no grievance procedure with binding arbitration in the contract between the parties, would not be helpful in negotiations. He believed that although the Employee-Management Relations Board had its limitations, at least it was a Nevada board. He felt that it could interpret Nevada Revised Statutes 288.150 better than an outside arbitrator. He also thought it would be more costly in the long run to make use of arbitrators. He did not want to remove the Employee-Management Relations Board's ability to hear complaints.

Mr. Robert Petroni, Nevada State School Boards Association, testified that when first established, the E.M.R.B. heard very few cases. He stated that he would like to see clarification of the E.M.R.B.'s jurisdiction on matters. He explained that this board was composed of lay persons who were not schooled in the field of labor relations. He did not believe that this board could handle the increasing number of cases brought before it as the members were only part time people with other jobs. It was also becoming expensive for them to hear the cases as they were becoming more lengthy.

Mr. Petroni also addressed the problem of the attorney fees and costs. Presently, the Nevada State School Board has to pay for all attorney fees whether they win or lose a case. He believed this should be evened out by making both sides pay, not just the local government employer.

Another clarification which needed to be dealt with was whether the E.M.R.B. had the authority to issue injunctions and restraining orders.

In Clark County contract disputes are covered by binding arbitration. However, the employees have filed grievance and also unfair labor practices at the same time. There should be clarification in the law barring the E.M.R.B. from hearing disputes which were covered by contracts.

Mr. Howard Reynolds, Washoe County Personnel Director, testified in support of amending Nevada Revised Statute 288.150 as provided for in Senate Bill Nos. 536 and 537. (See Exhibit C.)

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Ms. Joyce Woodhouse, President Nevada State Education Association, testified that she believed Assembly Bill No. 452 and Senate Bill No. 367 would be very damaging to employee management relations. She stated that every employee of the state would lose items from their contracts if Assembly Bill No. 452 was passed.

Ms. Woodhouse stated that Senate Bill No. 367 was ill conceived as it necessitated a complete restructure of the boards and commissions throughout Nevada. This measure sought to provide to management in law the right to determine how many days public employees could serve on a state board or commission.

Mr. Ron Creagh, Assistant City Manager, Reno, testified that the amendment which would prevent the Employee-Management Relations Board from having closed sessions was not the intent of the League of Cities and they had no desire to have this change made.

Mr. G. P. Etcheverry, member of the E.M.R.B. advisory committee, testified that he had proposed cutting their membership from 10 to 6 to help acquire quorums and to cut costs of their meetings. Mr. Etcheverry stated that Senate Bill No. 536 addressed two issues. One would be to increase the membership of the E.M.R.B. from 3 to 5 members and the other would be to eliminate the advisory commission.

Co-Chairman Gibson questioned if the advisory committee had ever discussed hiring a professional hearing officer. Mr. Etcheverry was not aware of any discussions to this effect, but thought the suggestion had merit.

Mr. Ken Frazier, Commissioner of the E.M.R.B., testified that he had been working in this capacity since October of 1979. Since that time he had handled approximately eighteen complaints. Not all of them went to hearings. He said the caseload was definitely increasing. His yearly allowance for travel expenses was \$2500 per year. He stated that this did not go very far with the increase in his workload.

Mr. John Kidwell, Chairman of the advisory committee, testified that his major concern was to provide the necessary funding for the E.M.R.B. He stated that if the funds now directed to the Employee-Management Relations advisory committee could be utilized by the E.M.R.B., then he would be in favor of taking the advisory committee out of the statutes.

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Mr. Jim Berry, Reno Personnel Director, testified that with regard to fiscal responsibility and arbitration the League of Cities had two committees. One committee was composed of personnel and collective bargaining people and the other was composed of finance people. Both committees looked through the provisions of Nevada Revised Statute 288. Those committees looked at certain types of funds which by law had to be protected.

Chairman Gibson asked if his committees had compiled a list of the particular funds which could not be considered and those that could. Mr. Berry stated that he would request the finance group to come up with the list which they had used in their negotiations and make it available to the committee.

Co-Chairman Dini believed this criteria would be necessary, especially if an out of state arbitrator was called in.

SENATE BILL NO. 550

Prohibits employee organization from requiring its members to be affiliated with another organization.

Co-Chairman Gibson explained the reasonings behind this bill as there was no one from the Carson City teachers association to testify. It was his understanding that their concern was not with the local organization, but they did object having a percentage of their dues paid to a national organization. As a result of this conflict they withdrew their membership from the local organization. This bill stated that a recognized employer will not require its members to be affiliated with any other local, state or national organization as a prerequisite for membership in an employee organization.

Ms. Pat Gothberg, Nevada Nurses Association, testified that she could not understand the reasonings behind this bill. The nurses belong to a tri-level organization meaning that their members belonged at the local, state and national level. This bill would put their organization out of business. She questioned state law telling them that they would have to change their by-laws.

Ms. Joyce Woodhouse, President Nevada State Education Association, testified that her organization was in complete opposition to this bill. She opposed any attempt by government to infringe upon their rights to organize on local, state and national levels.

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Mr. Robert Petroni, Clark County School District, testified that Mr. Howard Block had worked as an arbitrator with the Clark County School District. He did not remember what his exact decision was, but he recalled that the major issue was the threshold issue of what funds were available in making his decision to pay employee raises and fringe benefits. He was in support of clarifying the language on the restriction of certain funds. He agreed to get a copy of the decision discussed.

Mr. Bob Gagnier, Executive Director State of Nevada Employees Association, testified that he did not believe it was necessary to include state employees in Nevada Revised Statute No. 288. He stated that if the committees were interested in doing this, then he suggested that it be done in the manner of Senate Bill No. 650 of the 1973 session of the legislature, where all entities were covered in one law but covered in separate manners to fit their particular needs. He stated that Nevada Revised Statute No. 288 was a local government law which was designed for local governments and it did not fit state government.


He also stated that the timing schedules would not work for the state government. He explained that the timing provisions were tuned to local government budgetary periods and not state government budgetary periods. Mr. Gagnier indicated that if a collective bargaining bill was to be passed for state employees, then he would urge the passage of Assembly Bill No. 525.

Mr. G. P. Etcheverry, Nevada League of Cities, testified that he was in concurrence with the idea of the state of Nevada employees having the right to collective bargaining rather than meet and confer. However, he felt they should be included under one collective bargaining bill. He felt any problems could be handled.

Co-Chairman Gibson stated that this would be the last joint hearing. All further discussions would be held in the separate committees.

There being no further business, the meeting was adjourned at 7:52 p.m.

Respectfully submitted by:


Anne L. Lage, Secretary

APPROVED BY:


Senator James I. Gibson, Co-Chairman

DATE: 5/28/81

ASSEMBLY AND
SENATE AGENDA

COMMITTEE MEETINGS

Committee on Government Affairs , Room 131 .
Day Tuesday , Date May 5, 1981 , Time 6:00 P.M. .

JOINT HEARING OF THE SENATE AND
ASSEMBLY COMMITTEES ON GOVERNMENT AFFAIRS

S. B. No. 350--Revises provisions for factfinding and arbitration in disputes of local government employers and employees.

S. B. No. 367--Revises Local Government Employee-Management Relations Act.

A. B. No. 55--Restricts certain aspects of collective bargaining by local governments.

A. B. No. 225--Permits local government employer to request representative election to determine question of continued recognition of exclusive bargaining agent.

A. B. No. 226--Limits definition of "confidential" as it relates to local government employee-management relations.

A. B. No. 400--Revises Local Government Employee-Management Relations Act.

A. B. No. 452--Revises Local Government Employee-Management Relations Act.

S. B. No. 536--Extends collective bargaining to state employees and removes governor's emergency power to submit dispute to binding factfinding.

S. B. No. 537--Extends collective bargaining to state employees and provides for public referendum under certain circumstances.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON GOVERNMENT AFFAIRS

EXHIBIT B

DATE: May 28, 1981

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME ORGANIZATION & ADDRESS TELEPHONE

JOHN KIDWELL KMRAB 331-6500

Gili C. ... RENO CITY 347 6243

Pat Gathung NEV. NURSES' ASSN. 822-3555

ROSS CULSTON NPERC 883-0900

L. Howard Reynolds Washoe County 785-4143

Bob Sullivan Carson River Basin CAG 885-4680

Joyce Woodhouse Nevada State Educ Assoc 882-5574

Paul ... City of Reno 785-2018

G. P. Echeverry New League of Cities & EMRBA

Nicholas ... IUE, Local 39 358-3939

E.L. Newton NTA 882-2697

BOB GAGNER SNEA

Joe Fisher NSEA

WASHOE COUNTY

"To Protect and To Serve"



PERSONNEL DEPARTMENT
I. Howard Reynolds, Director

1205 MILL STREET
POST OFFICE BOX 11130
RENO, NEVADA 89520
PHONE: (702) 785-4143

EXHIBIT C

TESTIMONY BY I. HOWARD REYNOLDS,
PERSONNEL DIRECTOR, WASHOE COUNTY

In support of amending
NRS 288.150 as provided for in
SB 536 and SB 537

PROPOSED CHANGES

Paragraph 2 of NRS 288.150 currently lists twenty (20) items as mandatory subjects for bargaining. SB 536 and SB 537 would amend one of these subjects and remove two others as follows:

- Subparagraph 2(r) "Safety" would be changed to read "Safety of employees."
- Subparagraph 2(j) and 2(k), "Recognition clause" and "the method used to classify employees in the bargaining unit", would be removed from the scope of mandatory bargaining.

ARGUMENT SUPPORTING CHANGES

A. Safety

It is believed that this proposed change will better convey the intent of this subject, that is to negotiate matters pertaining to employee safety.

We would not want the current wording to be interpreted to mean something as broad as "public safety." Obviously, such a broad interpretation would make bargainable policy decisions which directly impact the level of service provided to the public. These decisions currently are, and should remain, matters that are exclusively reserved to the public agency elected bodies. The proposed change would ensure that this occurs.

B. Recognition Clause

As a mandatory subject of bargaining, this item is both unnecessary and contrary to the principles of sound collective bargaining. Although practically all collective bargaining agreements in both the public and private sector contain a "Recognition Clause," it is not a subject over which the parties negotiate.

In reality, recognition is almost a ministerial, perfunctory act and absent a group or groups of employees to represent as a bargaining unit, has little or no value. On the other hand, if you were to actually negotiate recognition, particularly if there were several competing employee organizations involved, the collective bargaining process would be absolute chaos. The two threshold questions of a) which group or groups of employees are to be covered by the negotiations and b) which employee organization is being recognized to negotiate on behalf of these employees, must be answered before negotiations commence, rather than being an integral part of the negotiating process.

The fact that "Recognition Clause" is unnecessary, as well as possibly being a conflicting provision, is answered in NRS 288.160 and NRS 288.170. These two sections of Chapter 288 provide for specific procedures under which bargaining units are determined and recognition is granted to employee organizations for these units. Both sections provide for an appeal process to the Local Government Employee-Management Relations Board which is statutorily empowered to deal with disputes arising out of either bargaining unit determination or recognition. Neither NRS 288.160 nor NRS 288.170 contemplate negotiating recognition. Therefore, listing "Recognition Clause" as a mandatory subject of bargaining under NRS 288.150 is both in conflict with these other sections in this chapter and not in the best interests of fostering positive employer-employee relationships.

C. The Method Used to Classify Employees in the Bargaining Unit

We on the management side of the table are proposing that this item be removed as a mandatory subject for bargaining for a very simple reason - we don't know what it means.

The right to classify positions, i.e., the determination of job content and the requisite skills, knowledge and abilities needed to perform that job, is generally viewed as a right reserved to management. The current language on this item is unclear as to what legitimately would fall within the scope of mandatory bargaining, and for this reason, we are asking that it be removed.