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OUTLINE OF JOINT HEARING CONDUCTED IN SENATE CHAMBERS, 55TH LEGISLATIVE SESSION, FEBRUARY 25, 1969

SUBJECT: SB 87 and AB 127

PRESIDING: Senator Gibson, Chairman, Senate Committee on Federal, State and Local Governments

Assemblyman Hal Smith - Chairman, Assembly Committee on Government Affairs

Assemblyman Virgil Getto - Chairman, Assembly Special Sub-Committee

Assembly Committee Members Present: Smith, Getto, Lingenfelter, Hilbrecht, Dini, Wood, Branch and Mello.

Senator Gibson convened the meeting, introduced the chairmen, and stated the hearings purpose. He stated that he had been given a list of those who had requested an opportunity to express their views on this topic of establishing negotiating processes for public employees with public management. The two bills specifically being considered are Senate Bill 87 and Assembly Bill 127.

The sponsor of SB 87 is Senator Carl Dodge and he was called to explain that legislation.

Senator Dodge began by stressing that this area of legislation is relatively new in America. There is a lot of experience in the private sector which offers a pattern to follow. There is nothing in the Nevada Statutes regarding negotiations between public employees and public management. The only avenue that presents itself in the absence of existing statutes is the old English common law procedures. He stated that when he began to work on a bill he looked to other states such as Wisconsin and New York for patterns to follow. He said that SB 87 is offered not as an exemplary piece of legislation but rather as a starting point upon which to build. SB 87 is limited to local government employees. Senator Dodge said that if it is felt necessary later to extend the coverage to include state employees it could be easily done. The bill defines a strike as any concerted stoppage of work, slowdown or interruption of operations by employees, and absence from work on pretext or excuse that is not founded in fact. In accordance with the right-to-work concept in Nevada, an employee may associate with any group for negotiation purposes or he may choose not to associate. No employee is mandated to associate. In Section 10 the legal duty to negotiate is set forth in the areas of wages, hours and physical conditions of employment. Also areas which are not subject to negotiation are set forth.

The late President John F. Kennedy's Executive Order No. 10988 was the work of a group of people thoroughly knowledgeable in the area and set forth negotiation processes for federal employees. The Order was consulted in the formulating of SB 87 although SB 87 is much broader. In Section 12 it is set forth the guidelines for determining what may constitute a bargaining unit of employees for the purposes of discussing the areas of wages, hours and physical conditions of employment. The community of interests among a group of employees is a determinant. Maintenance workers

could be considered a unit; school bus drivers could be considered a unit. It would be up to the employers to make a determination. The bill provides that an employee who has executive responsibility in the management personnel could not belong to the same unit as the people who work him in the system. They constitute separate bargaining units. Section 13 starts to set forth a time schedule for this type of procedure. Negotiations should be begun 120 days prior to the date fixed by law for the completion of a tentative budget for the first period for which the required budget is to be effective. If after 45 days the parties have not reached agreement, mediation can be requested. Then if after 75 days, the parties have not reached agreement a fact-finding board shall be created.

Throughout the process of negotiations up to the creating of a fact-finding board the meeting will be closed. It is felt that up to this point a greater flexibility and freedom of expression will obtain if the meetings are kept closed and confined to the parties directly concerned.

Section 18 of SB 87 creates the board of review. It can establish guidelines and procedures. Because of the newness of this, the guidelines will have to be developed. This sets up a new board. If it is found that that an impartial, existing body could perform this function it would be desirable. But it is not politic to involve, for example, the Department of Education in this type of negotiation. It would destroy the effectiveness of the present structure to ask such an agency to mediate these kinds of proceeding. Also it is felt that the courts would be too cumbersome. The local government employee-management relations board would serve this purpose. Arbitration is not provided for. In Section 24 we purport to enunciate a public policy regarding the illegality of striking. In Section 25 we provide that if in fact a strike occurs, a local employer can go into court to enjoin the strike. Also the court has to make a finding that in fact a strike exists. It is not left to a decision of local management. The court must make this determination. Section 26 provides the punishment for violations which are largely punitive. It is argued that these punishments are too punitive. However, if a strike is to be find completely unjustified, as a "wildcat" strike, these punishments are needed. Section 29 provides that the act would become effective upon passage and approval but time is provided for the boards to be established prior to the filing of any actions.

Senator Gibson thanked Senator Dodge for his presentation. He then introduced Mr. James Butler, Executive Secretary of the Nevada State Education Association, who had asked to speak on behalf of AB 127.

Mr. Butler introduced himself to the committees and said that AB 127 had been introduced at the request of the association he represents. In action of the association it has been resolved that such a law is necessary. The association has a basic concern that teachers should be considered separately from other employees. The primary concern is to establish a clearly established method for negotiations within the local school districts. The bill treats the schools as a separate entity. He said they were primarily interested in good faith negotiations between the

employees and the school districts. He said that they were not primarily interest in a strike as a weapon for selfish gain. Teachers have demonstrated their main concern to be that of educating the children. They feel that they have contributions to make that will make the schools better. Negotiating processes would allow them to have the opportunity to put their views into the policy-making procedures that exist. They ask that teachers be able to negotiate but not that they want to strike. If a school board is devoting what is nationally recognized as a maximum amount to salaries and additional local sources are not available, the problem then lies with the legislature. It should provide more aid from current revenues or vote new taxes. Teachers do not feel that they should strike unless the need is a demonstrated real need. However if in fact intolerable conditions do exist, and they have been found to exist, then there may be justification. It may be better for a child not to be in school. The answer lies in trying to get the board to remedy intolerable situations through negotiations. AB 127 would not allow a strike that was not in the public interest. If a strike is not in the public interest it should be enjoined. The determination should be made by a court. Like SB 87 this bill would provide for a factfinding panel if mediation fails. The bill provides that they should be selected by the Chancellor of the University of Nevada system. He has been selected because he is far enough removed from the lower grades and he would only be called upon when the local bodies could not agree. Authority should remain in the local area as long as they can agree. Binding arbitration should be invoked in order to interpret the meaning of a particular local agreement. Once the interpretation is made then it can be negotiated. This bill says that the decision of the local school board is the final decision. We need a better procedure, however, before the board makes its final decision. Actually advisory arbitration is needed. The role of the principal is somewhat different than employees in other fields. He is both in the teaching field and in a management position. He should have the option of deciding how he wishes to be involved in these procedures. This bill defines the areas for negotiation broadly. Teachers are by the greatest percentage very well trained. They are asking to be directly involved in making the total programs better. If you expect a teacher to be professional then you are going to have to provide for the teacher to be involved in the total problem of what to teach. If we come to the point that there must be a public employees bill, we would hope you would look closely to the composition of the board and the method of selection. Our prime concern is education.

Senator Gibson thanked Mr. Butler and then introduced Mr. I. R. Ashelman who had asked to speak on behalf of the Federated Firefighters Association.

Mr. Ashelman apologized to the committees for not having a bill ready for presentation. He said the proposed bill is being drafted and said that he felt the legislators would understand the delay. He said that some form of collective bargaining bill is needed. If you have some sort of procedure it is better for the municipalities as well as for the employees. The present situation in Nevada is intolerable. We do need guidelines and we do need an orderly method. The approach we take is that we don't have a long history upon which to build. We present a

very simple bill.

The bill defines a public employee who is not appointive. Employment relations are defined and their scope includes wages, hours, salaries and other conditions of employment. These terms have been defined by the courts. We define a bargaining representative. It need not be a union. It may be an association or any collective group. In our bill we have called upon the Labor Commissioner to be the determining agency. A Labor Commissioner is knowledgeable. He already exists. In our bill we call for elections. To bargain you have to represent the majority. We have a provision that 30% of the public employees have to want this. The election procedure is carefully set forth. The Labor Commissioner has powers which are outlined to allow flexibility. This flexibility would be desirable. There is provision for mediation. If bargaining and mediation fail, we have provision for arbitration. The parties themselves decide who their arbitrators will be. This leads to compromise. The American Arbitration Association has been chosen. This group is large and diversified and can furnish people representative of all segments. This method or approach is the best for avoiding strikes. Dues collections would be by payroll deduction.

The next speaker introduced by Senator Gibson was Mr. Robert Cahill, President, Washoe County Teachers Association.

Mr. Cahill appeared to support AB 127 sponsored by the Nevada Education Association. He emphasized the presentation of Mr. Butler by adding that in the past negotiations have been difficult. He stressed the need for establishment of an orderly system within the professional framework of the teachers and the school board districts. He stated that the organized Education Association has established a Negotiating Committee and is ready to operate. He said the present situation is largely one allowing the teachers to "appear and retire" to await decisions. Legislation is needed to give more weight to the appear and negotiate approach.

Senator Gibson then introduced Miss Audrey Huntoon of the Washoe County Teachers Association and also a member of the Nevada State Education Association Negotiating Committee.

Miss Huntoon stated that negotiations are new to them. We need a good piece of legislation for professional negotiations. We have learned that education has to change because the children have needs that are changing. If education is to continue to meet the needs of the children, we must be ready to meet the necessary changes. She said that in her 14 years of teaching the child who was her student 14 years ago is not the child who is her student today. When one considers that men have been trained to reach the moon, then one must realize that the training needed today is greatly altered. She said that SB 87 is not all that is needed. A bill enabling teachers to sit down and negotiate is essential. We are no less dedicated because we are more militant, she said. We want to be involved in the policy-making. She thanked the committees for the opportunity to present her views.

Mr. Robert Foard, Principal of the Wooster High School in Reno,

and Vice President of the Washoe County Teachers Association, was the next speaker introduced.

Mr. Foard introduced himself and said that in addition to the above he was also a member of the Nevada Education Association's Legislative Committee. He said he was speaking in support of the basic concept that a separate professional education act is needed in the State of Nevada. He said that education has certain unique qualities about it which he believed separate it from other public employee groups. His group feels that AB 127 is a bill which will establish a procedure by which the various groups within a school district can come together, negotiate and discuss their various problems and reach an agreement previous to its presentation to the Board of Trustees. In so doing, many of the things which are in reality trivial can be eliminated and the basic concepts of the teachers, principals and district personnel can be solved and presented to the trustees as a unified opinion within the county. It allows agreement through understanding. We feel it would lead to better education within a district and within the State.

Principals are in a unique position themselves, he stated. We, who are principals, feel strongly however. We need a framework in which to do this job. A separate professional practices act concerned with education is the best method to achieve this goal. There must be good faith in negotiations. Illegal work stoppages, or whatever you want to call them, have no place. We want to emphasize that we have not had problems of communication in the past, but we do see a danger in the future that if something is not structured it might develop. We feel AB 127 give the guidelines. It is a starting point.

Mr. Edward Pine of Reno, President of the Nevada School Trustees Association, was introduced by Senator Gibson as the next speaker.

Mr. Pine told the committees that he had been a member of the Washoe County School Board since 1956 and had served the Board since that time. He said that if a negotiation bill is needed in Nevada he favored Senate Bill 87. He said that negotiations would cost more money and the school boards would require capable negotiators. The present school boards represent the people; they are elected by the people. They come from varying backgrounds. The school boards cannot agree to financial demands before they know what their finances are. He said that any request for binding arbitration should be looked upon most carefully. In Nevada our school boards are diversified as are the areas they represent ranging the full spectrum from rural communities to highly populated urban centers. He said that he hoped that any bill would prohibit strikes and would not make mandatory restrictions. He said that as a board member he felt a close relationship with the employees of the state. He said that they would not do any more with a negotiations law than they are able to do now. He said that it seemed that in such event the teachers would have to negotiate with the legislature inasmuch as the financial restrictions upon educational development are dependent upon legislative support and the school board must operate within the framework of the financial support that has been found practicable. He said that the structure depends upon the citizens who are willing to serve in the school boards. In the past they have been dedicated citizens and they should not be placed in the position of negotiators with the children as the pawns.

Mr. Pine: The Nevada School Board members feel that the doors to the board sessions have been and are wide open, that the members have conducted negotiations, though informally, with staff representatives whenever requested and have arrived at agreements in the great majority of cases. He said that the Nevada School Trustees Association had taken a position and it has been adopted. If negotiations are necessary, they favor SB 87. They recognize the subject of negotiations has been presented to the legislature and they are well aware of the problems involved. They recognize that legislatures have been pressured to provide negotiations of a forced type. Of the 17 states having such legislation permitting negotiations, there has been much chaos.

The Nevada School Board members recommend that if Nevada legislates a negotiations act that they recognize that the procedures are most complex and would require the advice of experts in the field as past experience indicates. Such time and study would be required as to necessitate another governmental agency. On passage of legislation of this type, the requirements should be permissive and not mandatory.

Senator Gibson next introduced Mr. Lyman Bruce, Superintendent of Schools in Humboldt County.

Mr. Bruce supported Mr. Pine's position with respect to the undesirable passage of any mandatory legislation regarding negotiations. It would be detrimental to the rapport between school boards and teachers in many instances. He said that the informal approach has been very effective in the smaller areas. Legislation should be permissive; not mandatory.

Mr. John Hawkins, Ormsby County School Superintendent, presented his comments to the effect that demands in each area are highly different. In Ormsby County the financial demands are ever foremost and difficult to meet. Negotiations legislation could be disastrous within an area such as Ormsby County. The dangers could be such that the services within education would have to be diminished in order to meet financial demands that are impossible to meet. He supported the position that in effect if negotiations were not carefully limited they would result in negotiations between the teachers and the legislature itself.

Mr. Louis W. Bergevin, President of the State Board of Education, told the committees that the Board opposed AB 127 or any legislation that would permit the right to strike. He said that any negotiation act should be optional to allow the various counties to decide whether they want to enter into collective bargaining procedures. He cited the recent action in Clark County where a large group of teachers publicly censured State Superintendent of Public Instruction Larson. He called this irresponsible on their part and indicative of what could develop. The present authority of local school boards should be supported. He said they spend much time and dedication to the public good and that they are not paid. He said they were interested in their teachers but it is necessary to work within the realm of mutual trust for the elected representatives of the people.

Mr. Gilbert Craft, a Trustee of the Mineral County School Board, was introduced.

Mr. Craft said that he and the other trustees in his area are vitally interested in the education of our children. He said they were of the opinion that any forced negotiations would be detrimental to the small counties. He said they had an open door policy that has worked very effectively in the past. A mandatory negotiations bill would present many problems. A trained negotiator would have to be hired. He said that if legislation is needed his group favored SB 87.

Mr. James Butler reminded the Chairmen of the committees that there were many representatives from the Clark County area who favored AB 127 who were not able to be present due to the weather conditions. Senator Gibson assured him that he had been so advised and that as the committees met individually for further consideration that the an opportunity would be given for further presentations.

Chairman Hal Smith asked Mr. Butler whether in the staffing of the schools all of the personnel were professional educators. Mr. Butler said that most of them were except within the business administrative offices.

Mr. Albert Seeliger, member of the University of Nevada Board of Regents addressed the Chair and requested to read a telegram from the White Pine County School Trustees. This telegram which he read supported SB 87 and expressed their strong opposition to AB 127. Also the telegram stated that the right to strike should not be granted an any time.

Senator Gibson aslos read a telegram in which the Reno Police Protective Association urged the support of AB 127.

Mr. James Corey, Las Vegas City Commissioner, offered his comment to the effect that he felt from his experience that negotiations without the threat of a strike are not negotiations. He also stated that compulsory arbitration has not worked.

Mr. Rennie Ashelman then addressed the Chair in opposition to Mr. Corey's statement and said that through his somewhat larger experience than Mr. Corey's he had found to the contrary. Arbitration and collective bargaining have proved very effective.

Chairman Hal Smith asked Mr. Butler if he could explain where in the present organization of the school board trustee system communications have broken down. Mr. Butler's response indicated that he could not pinpoint specific instances but that the Association was more concerned with the imminent possibility of future breakdowns. Assemblyman Smith also inquired whether within the professional teacher system, it was recognized that there had to be a final authority. Mr. Butler acknowledged that the decisions of the school boards had to be final but countered that negotiations should precede any final decisions in which the teachers can participate in decision formulation.

Sub-Committee Chairman Getto asked Mr. Butler to enlarge upon his statement that "there may be a situation where it would be better if a child were not in school; that if it were intolerable a strike would be justified".

Mr. Butler said that in one instance in New Jersey a walkout occurred when the teachers were unable to effect improvements in the physical school plant which was badly deteriorated, infested with rats and vermin, etc. He asserted that in such a circumstance where the school administration failed to support an adequate facility system the walkout seemed to be justified.

The hearing was terminated with the assurance that the measures would be given a full hearing by the individual committees..