

Assembly

MINUTES OF MEETING - ASSEMBLY COMMITTEE ON LABOR AND MANAGEMENT - 55TH SESSION
MARCH 24, 1969

PRESENT: Capurro, Lingenfelter, Webb (late), Branch, May, Mello

ABSENT: WILSON

ALSO PRESENT: Robert D. Charlebois, American Arbitration Assoc.
Theo. R. Lawson, Southern Nevada Central Labor Council
Frank W. Daykin, Chief Deputy, Nevada Legislative Counsel Bureau
Webb Brown, Nevada of Engineers
Tom Hutchins, Nevada Industrial Commission
Lou Paley, Executive Secretary, AFL-CIO
Mr. Oak
Mr. Gray

Chairman Capurro called meeting to order with announcement that the discussion would be on Bills - AB-644 and AB-579. Mr. Daykin from the Legislative Counsel Bureau was present to explain bill AB-644 and asked Mr. Daykin to speak.

Mr. Daykin then proceeded to define more clearly certain points which he felt were of importance in the amendment. He said that the original bill (AB-616) was enacted in 1921 and that the bill now before the committee (AB-644) was adopted in 1955 and is a uniform arbitration bill. He pointed out that there was distinct definitions given to words and terms which were not included in the old bill and brought the procedure of arbitrations under the jurisdiction of the courts. That it was now a question of law as well as a question of fact. He called attention to Sec. 3, part 4, line 11 the words "Neutral arbitrator" and the definition thereof, also line 15 "Party to the arbitration" and the sub-paragraphs following.

He further said that AB-644 broadens the terms of agreement and under the former act only differences contained in written reports and agreements were covered but this bill covers not only the differences arising at the time of the written report or agreement but any controversy that might arise in the future from such a contract or agreement. The whole bill, he said, was actually set up to cover rules on several arbitration procedures according to procedural law. Mr. Daykin then suggested that Mr. Gray might like to explain something that he had overlooked.

Mr. Gray stated the only thing he felt he could add was that the Bill was the best kind of best kind of legislation covering arbitration that could be composed. That at the present time the State did not have on the books full/uniform arbitration laws.

Assemblyman Lingenfelter then stated it was his understanding that this was a strictly uniform act and if some outsiders were brought in it would cover their part in the arbitration and provided for that.

He was told that it provided for arbitration only if each party have agreed but also provided against one person after having agreed, wanted to back out, after an agreement, they must arbitrate.

Mr. Capurro then asked if this applied to any contract in any kind of business - insurance, contracting etc.

Mr. Daykin answered that it applied to any kind of operation.

LABOR AND MANAGEMENT - #2

A suggestion that it might be advantageous to include the clause "between agents and contractor" but it was felt that it was not necessary inasmuch as Bill AB-644 covered this and would enforce the law for both.

Assemblyman Lingenfelter then inquired how this bill would effect AB-616 and was informed that it would facilitate the operation of AB-616.

It was brought out that AB-644 tied in with AB-616 and further AB-616 was perhaps enacted out of precedent, that every bill which passes would have to go to the American Arbitration Association but that there really was no conflict between American Arbitration on this act.

Mr. Oak then addressed the committee stating that there should be no set of rules to govern all arbitration. That rather they should be set up supplementarily so that they could be applied to different situations arising out of differences with individual operators. That the arbitration arising out of differences with a building contractor might not apply to an entirely different situation emerging from a controversy with some other type of operation, and arbitration would be handled according the rules of each.

Any arbitration that had been brought to his attention, Mr. Oakes said, under the present statute did not make pre-arrangement for pre-arbitration. He said he had pointed out to Mr. Paley that they (Unions) were not protected in Nevada as they were in other states and as to the suggestion to put AB-616 on the Clerk's desk for amendment he wished they would not do that.

It was next stated that there had been some question as to whether this law would not effect the attorneys who represent either party in arbitration proceedings and the answer was that any party going into an arbitration conference seldom went without an attorney and it was improbable and quite unwise to do so.

Chairman Capurro then called for remarks from Mr. Charlebois of the American Arbitration Association.

Mr. Charlebois remarked that interpretation of some of the wording might be confusing. He said the original law was based upon common law which was about 350 years^{ago} and in some instances, specifically with the United Association of Journeymen, it was not upheld. He also said with reference to Section 11, altho the rules were approved by the American Arbitration Association, if a party has reserved council and appeal their hearing and say one is represented by counsel and the other is not, one of the Parties may be "prejudiced", and he felt some wording should be made to this extent that a waiver be granted at this time.

He referred further to Section 17, Sub-Section B, in which he suggested that the words "substantially prejudicing" should be used rather than "prejudicing the rights" etc. That many errors could arise from this interpretation. Another item he called to the attention of the committee was on the time limit for the confirmation of the award or judgement that he thought one year was a reasonable time for this.

Assembly

March 24, 1969

LABOR AND MANAGEMENT - - #3

It was agreed that the passage of bill AB-644 was necessary and unlike Bill AB-616 on which comments had been made that duplicity of litigations had resulted. That this put contractors and sub-contractors in a difficult position if, as in other states, they are not able to enter into arbitration with the state.

Chairman Capurro asked for further comments and it was remarked that the text appeared to be exactly written as in a uniform state law and that no other state with perhaps the exception of Arizona had adopted this act but that the Arizona law was certainly different. There was no objection to the waiver clause being initiative and it was agreed that arbitration seemed to be a speedier method under this law. It was thought that this law protected any party from being surprised at the other's bringing in unexpected issues.

Mr. Oak then stated that if the act passed it would certainly be much better than what they had been working with.

Mr. Paley also stated that he was in favor of the passage of this bill.

Mr. Daykin then suggested an amendment to be drawn up which would omit the word "Mandatory" in some of the clauses and another change in wording from "prejudice" to "substantially prejudiced" and agreed to prepare amendment and hand to Chairman Capurro.

Motion to ^{have} amendment prepared on AB-644

Motion seconded

Motion carried unanimously

Mr. Brown, Engineers announced that his organization fully supported this bill.

Mr. Capurro then called for discussion on AB-579 and stated that amendment had been proposed, which raised dependant death benefits from \$305. to \$335.

Mr. Oak brought to the Committee's attention that this bill had been agreed on by both Labor and Management.

Mr. Capurro then said that the committee would like to have figures on what the cost was going to be.

Mr. Oak and Mr. Hutchins from the Nevada Industrial Commission both gave detailed reports on costs and increases and Mr. Hutchins offered to give Chairman Capurro a copy of his written report (see copy attached to Minutes)

Mr. Oak and Mr. Paley expressed their thanks and appreciation and stated that many hours had been expended on this legislation and that they had received very fine co-operation from the committee which had helped immensely.

Mr. Capurro then called a closed meeting of the committee.

Action taken as follows:

Assembly

Labor and Management - - #4

Motion to pass AB-579 as amended with "do pass" recommendation

Motion seconded

Motion carried unanimously.

Motion to pass AB-644 as amended with "do pass" recommendation

Motion seconded

Motion carried unanimously

Motion to pass AB-571 as amended with "do pass" recommendation

Motion seconded

Motion carried 4 to 0 (Assemblyman May left earlier to fill quorum on another
Committee)

Meeting adjourned

ESTIMATED INCREASE IN COST OF DISABILITY BENEFITS UNDER AB 579

28

Added Cost
FY 1970

616.580 Permanent Total Disability - Maximum wage increased from \$290 to \$320. 10.3% raise to those whose wage is \$320 or more. \$ 274,000
No increase to those whose wage was less than \$290. (Existing pensions - 25 pensioners would receive no increase, 7 would receive less than 10.3% and 67 would receive 10.3%.)

Premium rate increase of 2.4% required to cover added FY 1970 cost for Permanent Totals.

616.585 Temporary Total Disability - Maximum wage from \$350 to \$385. \$ 219,000

Premium rate increase of 1.9% required to cover added FY 1970 cost for Temporary Totals.

616.590 and 616.605, Permanent Partial Disability - Maximum wage increased from \$360 to \$400 \$ 101,000

Premium rate increase of 0.9% required to cover added FY 1970 costs for Permanent Partial.

Amendment to AB 579

616.615 Fatals - Widows, Childrens and Parents - Maximum wage from \$305 to \$335 \$ 517,000

Premium rate increase of 4.5% required to cover added FY 1970 cost for Fatals.

Total added cost AB 579 \$1,111,000

Premium rate increase to cover provisions of AB 579 - 9.7%.

SB 306 Provides for increase in Silicosis Pensions and extension of those pensions which become depleted through a supplemental award.

NRS 617.460 and 617.467 - Silicosis pensioners \$ 231,000

Premium rate increase to cover provisions of SB 306 - 2.0%.

Total increase to premium rate to cover all benefit increases - 11.7%.

Note: Medical Fees were revised during Fiscal Year 1969. Anticipated additional cost as a result of the Medical Fee revision, \$455,000 per annum. Indicated increase in premium rate - 4.0%.