

**MINUTES OF THE SUBCOMMITTEE OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session
March 3, 2005**

The subcommittee of the Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:56 a.m. on Thursday, March 3, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Joe Heck
Senator Maggie Carlton

STAFF MEMBERS PRESENT:

Shirley Parks, Committee Secretary
Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Donna Winter, Committee Secretary

OTHERS PRESENT:

Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry
Jack Kim, Sierra Health Services, Incorporated
Robert A. Ostrovsky, Nevada Resort Association
Paul D. McKenzie, Operating Engineers Local Union No. 3
William R. Uffelman, Nevada Bankers Association
Lori Ashton, Southwest Regional Council of Carpenters

CHAIR TOWNSEND:

I will open the discussion on Senate Bill (S.B.) 116.

SENATE BILL 116: Makes various changes to labor laws and powers and duties of Labor Commissioner. (BDR 28-231)

Subcommittee of the Senate Committee on Commerce and Labor
March 3, 2005
Page 2

MICHAEL TANCHEK (Labor Commissioner, Office of Labor Commissioner,
Department of Business and Industry):

I have an amendment to offer ([Exhibit C](#)). This amendment would drop sections 2 and 3 of the bill and amend section 1 as shown on page 2 of [Exhibit C](#).

The issue addressed in section 2 is an important one and should be addressed, but the solution proposed in the bill is not an appropriate solution to the problem. It casts too broad of a net.

CHAIR TOWNSEND:

We have background information on this issue ([Exhibit D](#)). The bill arose out of a specific incident in which the employer deducted money from employees' paychecks for health coverage but did not inform them the insurance had been canceled. This put employees at risk for the cost of treatments provided because they thought they were covered.

JACK KIM (Sierra Health Services, Incorporated):

In that case, the fault was not with the employer but his payroll service. The employer was a client of the payroll service and was not aware the insurance had been canceled. New legislation now requires payroll services to give insurers a list of clients so they can be informed directly when insurance is canceled.

CHAIR TOWNSEND:

Would the uninsured employers fund help in this case?

ROBERT A. OSTROVSKY (Nevada Resort Association):

That fund is used only when the insurance company fails.

CHAIR TOWNSEND:

What is the penalty against the employer for not notifying employees of the cancellation of insurance? Who has jurisdiction over this?

MR. TANCHEK:

That situation is covered by the Labor Commissioner under *Nevada Revised Statutes* (NRS) 608. We can assess an administrative fine or approach the Office of the Attorney General for a misdemeanor prosecution for the violation. However, this does nothing for the employee who has been victimized. Any

Subcommittee of the Senate Committee on Commerce and Labor
March 3, 2005
Page 3

funds collected go into the State's General Fund, and the employee is still liable for any medical bills incurred. This is the situation that prompted the bill originally.

SENATOR CARLTON:

Do you not get the payments from the employer?

MR. TANCHEK:

If a deduction was made from the employees' paychecks for insurance but never paid to the insurers, we approach this as an inappropriate deduction and recover what was paid, if the funds are there.

PAUL D. MCKENZIE (Operating Engineers Local Union No. 3):

A possible solution might be to require employers to pay insurance premiums a month in advance. This would give employers and employees a 30-day cushion in case of cancellation.

SENATOR CARLTON:

In companies that require an employee to be with them for six months before they are eligible for health coverage, the employer might allow them to start making payments on the fifth month. This would have the effect of producing that 30-day cushion.

MR. TANCHEK:

Under existing law, the employer can avoid this problem by giving employees written notice of ten days.

CHAIR TOWNSEND:

We need to approach this with caution; we do not want to discourage employers from getting health coverage for their employees. This is an important issue, and we will continue to work on it outside the context of this bill.

MR. TANCHEK:

Section 3 addresses an issue that has been resolved since the bill draft request (BDR) was submitted. This is now covered by regulation, so section 3 is no longer necessary.

Subcommittee of the Senate Committee on Commerce and Labor
March 3, 2005
Page 4

WILLIAM R. UFFELMAN (Nevada Bankers Association):
With the elimination of section 3, we have no objection to the bill.

MR. TANCHEK:

The more important changes we are requesting are to section 1 of the bill. Inserting "including a public body" in subsection 2 of section 1 allows the Labor Commissioner to pursue awarding bodies that are not meeting their obligations. We are also requesting the restoration of the phrase "of not more than \$5,000" because the phrase "not more than" gives the Commissioner discretion as to the amount of the penalty.

CHAIR TOWNSEND:

The \$5,000 cap was removed because you felt that amount could be easily absorbed by larger companies. Are you saying you now want the cap?

MR. TANCHEK:

I am willing to accept the cap in order to have discretion to levy smaller fines when called for. I have another tool to punish larger companies, which is disqualification from bidding on public projects. This is a more effective deterrent than a one-time penalty.

The final change requested is to subsection 4 of section 1. I agree the Labor Commissioner should be required to report violations to the Office of the Attorney General, but the Attorney General should have discretion as to prosecution. I have discussed this change with the deputy attorney general assigned to my office, and she is in agreement with the change.

CHAIR TOWNSEND:

We will not hold up this bill while we seek a solution to the unpaid health benefits issue. I would like the parties involved to work to resolve the issue, then report back to this subcommittee in two weeks.

MR. OSTROVSKY:

We agree to the amendments in [Exhibit C](#) and will work with Mr. Tanchek to resolve the health coverage issue.

Subcommittee of the Senate Committee on Commerce and Labor
March 3, 2005
Page 5

LORI ASHTON (Southwest Regional Council of Carpenters):

We concur with the amendments in [Exhibit C](#) and are committed to working with Mr. Tanchek on the unpaid health benefits issue. I am not sure we can find a solution in two weeks, however.

CHAIR TOWNSEND:

If there are no further comments, the meeting is adjourned at 9:26 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____