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Business and Labor Committee
May 18, 2017

[CONFIRMATION]

The Committee on Business and Labor met at 8:30 a.m. on Thursday, May 18, 2017, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on the gubernatorial appointment of Dallas Jones to the Commission on Industrial Relations (CIR). Senators present: Joni Albrecht, Chairperson; Sue Crawford, Vice Chairperson; Steve Halloran; Matt Hansen; and Sara Howard. Senators absent: Ernie Chambers and John Lowe.

SENATOR ALBRECHT: Good morning and thank you for coming to the Business and Labor Committee. We have a public hearing this morning, I should say, with Dallas Jones for the Commission on Industrial Relations. My name is Joni Albrecht, I'm the Chairman of the board. Sorry, I have a frog in my throat, but I'm going to go around with Senator Hansen, if you'd like to introduce yourself.

SENATOR HANSEN: Matt Hansen, Legislative District 26 in Lincoln.

SENATOR HOWARD: Sara Howard, I represent District 9 in midtown Omaha.

SENATOR ALBRECHT: Perfect, and Senator Crawford.

SENATOR CRAWFORD: Good morning. Senator Crawford from LD45, which is eastern Sarpy County, Bellevue and Offutt.

SENATOR ALBRECHT: And she's our Vice Chair of Business and Labor. I have Beverly Neel who is our clerk; Meghan Chaffee who is our counsel. And we have Joseph Gruber from UNL studying political science. And we'll go ahead and let you open and talk about yourself. We'll have some questions for you, then I'll ask for any proponents, opponents, or anyone in neutral. All right? Thank you. [CONFIRMATION]

DALLAS JONES: Very well. Thank you. Good morning, Senator Albrecht and members of the Business and Labor Committee. My name is Dallas Jones and I am here, obviously, to appear before you to discuss my qualifications and my application to serve on the Commission on Industrial Relations. I have been practicing law for about 29 years. I handle, primarily, workers compensation matters, so it's related to what the commission does inasmuch as it deals with employer and employee relations, which is one of the reasons why I'm interested in this particular opportunity to serve. I'm interested in an opportunity to serve in some capacity. This is one, when I understood that it may come open, I wanted to submit my application simply because it's close enough to what I do day in and day out. Not that I know and confess that I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

don't know a lot about the particular ins and outs of the commission. It's close enough to what I do that I wanted a chance to...an opportunity to contribute whatever skills that I have to the operation of the commission. I don't know how much you want to know about my background. I'm happy to share anything and everything. This is a new process to me. In addition to practicing law, I've been active in the community for the entire time that I've been practicing law, all here in Lincoln with the law firm of Baylor Evnen. I don't know if my application made it to you, if my resume made it to you, but that goes through much of what I have done in terms of volunteer activities. My focus has been on organizations that tend to serve kids. Not that that's related whatsoever to the operations of the commission, but at least so you have a little background on what I do and what I've done and what my interests are. That's what they are. We have three kids; very busy family life. Interests in community service things; being a dad; being a husband. All those things that take an enormous amount of time, but are hugely gratifying. So I believe that in terms of my qualifications, just the fact that I've been litigating cases in a related arena for many, many years, and I will concede primarily heavily on the side of the employer. I've been before this committee on bills, many times, so you know that about me. Not exclusively, however, I have a trial coming up where I'm representing an employee in a worker's compensation case in the next couple months. But no doubt about it, I'm...that's where my firm's history has been and that's where the clientele of the firm's...of the clientele of the firm is so that's what I do. The operation of the commission, while it's not one where I have a great familiarity yet with all of the rules, it's much like any other arena of the law. It's understand the rules, apply the facts to the law, and reach decisions, which is something that I do every single day and I feel quite comfortable that I'll be able to do that. I know several of the commission members already just from the practice of law. So I would appreciate the opportunity to serve. And I'll stop there and answer questions that you have that...if any, related to my qualifications or anything else. [CONFIRMATION]

SENATOR ALBRECHT: Thank you. Perfect. Any questions? Senator Crawford.
[CONFIRMATION]

SENATOR CRAWFORD: Thank you, Chairman Albrecht. And thank you, Mr. Jones, for being here and for your willingness to serve. Wonder if you would just speak to your perspective on collective bargaining, and particularly collective bargaining on the part of public unions.
[CONFIRMATION]

DALLAS JONES: Well, it's clear as a matter of law, that it exists and there isn't any debate about that. So in terms of...if it's a political question of whether I think that's a good policy or not is one question and whether it's there is, obviously, another. I confess, I haven't spent a whole lot of my time thinking about whether, from a policy perspective, that's a good one, we have had this policy in place since the late '40s, if I recall it correctly. It's a policy that works. I don't have a better recommendation or suggestion to offer to you. It seems to work. I read commission...or at

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

least the appellate decisions that review the commission's findings from time to time. It's a system that seems to serve the state pretty well, so I'm not here to tell you I've got an alternative for you. I don't. [CONFIRMATION]

SENATOR CRAWFORD: So, sure. So just to clarify, when you say you've read the positions, you think it's working fairly well, you mean in our state currently collective bargaining is working pretty well. Do you also mean that you think that the CIR is working pretty well in our state as a commissioner coming on? [CONFIRMATION]

DALLAS JONES: From my perspective, which has a fair amount of distance from it, I can see, yes, I can't tell you here are all...here's a list of the problems that I see with that. Again, it's not one that I've spent a tremendous amount of time thinking about the policy considerations behind it. As a practitioner, it seems as though the process is working and problems are being resolved by the system that's in place and the commission is, obviously, a big part of that. [CONFIRMATION]

SENATOR CRAWFORD: Great. And do you see some particular perspective or contribution based on your experience and experience that you'll be bringing to the commission? [CONFIRMATION]

DALLAS JONES: Yeah, and it's primarily the application of facts to law. [CONFIRMATION]

SENATOR CRAWFORD: Okay. [CONFIRMATION]

DALLAS JONES: Spending my entire career in handling litigated matters, which are parallel to what's happening in the CIR where one party and the other are developing facts that they tend to believe promotes finding of fact in law by the body that is designed to decide that. I'm a litigant, obviously. I've not been on the other side of the bench before. But I understand the process very well. That's what I do, so I believe I'm highly qualified to sit on the other side and listen to the facts and make evidentiary rulings and determinations whether or not burdens of proof have been met, which is what the commission does. [CONFIRMATION]

SENATOR CRAWFORD: Great. Thank you. [CONFIRMATION]

SENATOR ALBRECHT: Thank you, Senator Crawford. Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you. Thank you for visiting with us today. Later I'm going to ask you how you got from a geology degree to a law degree. (Laughter) But I was hoping you could

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

tell us a little bit about how you view the role of a commissioner on the CIR. Is it meant to be an unbiased arbiter, are they...is...what are the considerations for that role? [CONFIRMATION]

DALLAS JONES: It's very much meant to be an unbiased arbiter and apply law that has been decided by this body to facts that the litigants bring forward and assert proves one thing or another. It is absolutely not a political position where one comes in with a biased one way or the other, intends to try to move the body of law one direction or another, that's absolutely what it's not. It's akin to a...although the Supreme Court has said it's not a judicial position, it's something that's quasi judicial, not that they used that term, but the commission acts as the judge in disputes between public employers and employees and applies the law as it understands the law as is intended to be applied to the facts that are before it. [CONFIRMATION]

SENATOR HOWARD: So should I be concerned, in your background you said that you feel very comfortable in admitting a bias towards the employer; is it something I should be...I mean, I would worry about it even on Health and Human Services if someone said something along those lines. [CONFIRMATION]

DALLAS JONES: I wouldn't put it that I admit to a bias toward the employer. In my background, clearly, what my practice has been. The firm that I joined back in 1985 as a law clerk had a body of clients that are primarily made up of employers of insurers and that's what I began doing, so that's what I have done for 29 years. But I'm quite capable of setting aside what I come to the commission with in terms of experience and whom I have happened to represent in unrelated areas or related only inasmuch as employer/employee relations and decide in a fair-minded, unbiased way what does the law require. [CONFIRMATION]

SENATOR HOWARD: Wonderful. Thank you. [CONFIRMATION]

DALLAS JONES: So I would not hope that you would have concerns with that and I feel quite comfortable that that's the obligation and I'll meet that sort of thing. [CONFIRMATION]

SENATOR HOWARD: Wonderful. Thank you. [CONFIRMATION]

SENATOR ALBRECHT: Senator Hansen, do you have any questions? [CONFIRMATION]

SENATOR HANSEN: I was going to ask something similar. [CONFIRMATION]

SENATOR ALBRECHT: Okay. Senator Halloran has joined us. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

SENATOR HOWARD: You were going to ask him about how he went from geologist to law... (Laughter) [CONFIRMATION]

SENATOR HANSEN: Actually, that's the question. (Laughter) [CONFIRMATION]

DALLAS JONES: To get down to the important stuff. I'd be happy to answer that. My oldest brother got a geology degree and I looked up to him so I went to college and decided I'd probably better do the same thing. And actually it was in the early '80s when the oil industry really took a turn for the worst and jobs were very difficult to find. I wanted to be a petroleum engineer actually. I had a very good friend from Oklahoma who was a year ahead of me who happened to be a geology major and went to law school and said--hey, this is really cool, you ought to try this. So I'd like to say that I had this grand scheme to be the world's best lawyer and I always wanted to go there, but I just kind of fell into it because that's where the jobs were and I had a friend who said it ought to be something I ought to do. [CONFIRMATION]

SENATOR HOWARD: What's Kids' Chance? [CONFIRMATION]

DALLAS JONES: Kids' Chance is a nonprofit that Rod Rehm and I...Rod is a lawyer who represents employees in workers' compensation claims. A good friend of mine, but a professional adversary, typically, we got together four years ago now, and formed this nonprofit that exists for the purpose of raising money, primarily, from the workers' compensation system to turn around and award scholarships to kids of workers whose parents have been significantly disabled or killed in work accidents. So, we...we just awarded our sixth, seventh, and eighth scholarship three days ago and we now have eight kids in college full time. [CONFIRMATION]

SENATOR HOWARD: That's wonderful. [CONFIRMATION]

DALLAS JONES: I'm very proud of that. [CONFIRMATION]

SENATOR HOWARD: Thank you for your work on that. [CONFIRMATION]

DALLAS JONES: It's an organization that we worked very hard. One of our, just now, former board member is here from the labor side to populate that with people who are from throughout the system with all stakeholders--labor, business, any stakeholder, and it's worked very well and very gratifying. [CONFIRMATION]

SENATOR HOWARD: That's great. Thank you. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

SENATOR ALBRECHT: So I see you went to Thedford. [CONFIRMATION]

DALLAS JONES: I did, that's where I grew up. [CONFIRMATION]

SENATOR ALBRECHT: Is that where your family is still at? [CONFIRMATION]

DALLAS JONES: Yeah, my mom lives out there, and my oldest brother recently retired, the geologist, and moved back. [CONFIRMATION]

SENATOR ALBRECHT: Very good, very good. Senator Halloran, I know you just joined us, would you have any questions? [CONFIRMATION]

SENATOR HALLORAN: No, other than apology for being late. [CONFIRMATION]

DALLAS JONES: No problem, Senator. [CONFIRMATION]

SENATOR ALBRECHT: The last day. Well, I think we've taken enough of your time. I'm going to ask you just to sit on the side and I'm going to ask for proponents, opponents, and people in neutral position. Okay? [CONFIRMATION]

DALLAS JONES: Thank you. Thank you. [CONFIRMATION]

SENATOR ALBRECHT: Thank you. Do we have any proponents wishing to speak? Any opponents? [CONFIRMATION]

MIKE MARVIN: Good morning, Chair Albrecht and members of the committee. My name is Mike Marvin, M-i-k-e M-a-r-v-i-n. I'm the executive director of the Nebraska Association of Public Employees, the union representing the vast majority of state employees. Until about five minutes out, I had not made up my mind which way I was going to testify, so I don't have written testimony for you today. In the end, I decided that I needed to testify in opposition to this appointment. And I have served with Mr. Jones on the board of Kids' Chance and I've...he's a dedicated, hard-working, professional man. He's qualified legally to this position. My concerns come from his law practice. As he has stated, primarily has been in the work comp area on the side of management. I think that coming from that perspective for so many years, it would be hard to be in a neutral position if you were on the CIR. Just opposite of that, if I were an appointee to the CIR, as a 40-year labor representative, I would have a hard time setting my biases apart. I don't know that anybody that has practiced in these areas for extended period of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

time can truly say that we're going to set aside our biases because they're so engrained in our thought processes in the way we approach things and do things. I don't have concerns about his honesty. I have no concerns, you know, about what kind of person he is. It is just that where he comes from I'm not sure that it is the right place for him in the Commission of Industrial Relations. [CONFIRMATION]

SENATOR ALBRECHT: Very good. Do we have any questions? Senator Halloran.
[CONFIRMATION]

SENATOR HALLORAN: Chairperson. And this is not just a question I should have asked of the appointee...or potential appointee, how many are on the CIR? [CONFIRMATION]

MIKE MARVIN: You know, I should be able to answer that off the top of my head and I can't do that. Every time that I've been in front of the CIR we've dealt with one hearing officer and a panel of three has made the decision. [CONFIRMATION]

SENATOR HALLORAN: Okay. [CONFIRMATION]

SENATOR ALBRECHT: Okay. Mr. Marvin, you said you are the executive director for the state employees. [CONFIRMATION]

MIKE MARVIN: Yes. [CONFIRMATION]

SENATOR ALBRECHT: I thought you retired? [CONFIRMATION]

MIKE MARVIN: I am retiring at the end of this session. (Laughter) They've convinced me to hang on until June 30. I told them that's the longest I'm going to stay. [CONFIRMATION]

SENATOR ALBRECHT: Just checking. Because I thought you had mentioned that you had retired in that chair last time you were here. [CONFIRMATION]

MIKE MARVIN: I am retiring. [CONFIRMATION]

SENATOR ALBRECHT: Okay, any other questions? Thank you very much for your testimony.
[CONFIRMATION]

MIKE MARVIN: All right, thank you. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

SENATOR ALBRECHT: Do we have any other opponents wishing to speak? Any other opponents? Do we have any other opponents wishing to speak? Seeing none, we'll start with the...anyone in a neutral position. [CONFIRMATION]

RON TROUBA: Good morning, ladies and gentlemen, my name is Ron Trouba, R-o-n T-r-o-u-b-a, and I'm the president of the Lincoln Fire Fighters Association. I'd like to speak in the neutral capacity... [CONFIRMATION]

SENATOR ALBRECHT: Excuse me. Could I just have you spell your name, please?
[CONFIRMATION]

RON TROUBA: R-o-n T-r-o-u-b-a. [CONFIRMATION]

SENATOR ALBRECHT: Okay. Go ahead. [CONFIRMATION]

RON TROUBA: And I'd like to speak in the neutral capacity today. After listening to Mr. Jones's testimony, it is apparent that his experience comes from the employer or management's perspective. And as important as it is to the employees, we would hope that folks would have a better perspective from labor's side. And I believe it's difficult for the commissioners to listen to attorneys try to explain every detail of a particular occupation and the working conditions that they face. And I would propose that Mr. Jones, and actually extend this invitation to all of you on the Business and Labor Committee, that you seek out some opportunities to better understand the working conditions of employees. So for example, the firefighters here in Lincoln do host some events where we bring in folks from the outside to participate in a full-day exercise where they don our protective equipment and they go through different scenarios with live fires and auto accidents and medical emergencies, and I believe it would give the folks who make very important decisions like this a better perspective of the employee and their working conditions, and help them to make better judgments as they sit in these positions. That's all I have. If you have any questions for me. [CONFIRMATION]

SENATOR ALBRECHT: Great. Any questions? Senator Crawford. [CONFIRMATION]

SENATOR CRAWFORD: Thank you, Chairman Albrecht. And thank you, Mr. Trouba. Have you presented cases before the CIR or had interaction with the CIR in your role?
[CONFIRMATION]

RON TROUBA: I have not. I have been witness to some, but I have not participated.
[CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

SENATOR CRAWFORD: Does your invitation extend to members of the...to commissioners to join you for the day and have that experience? [CONFIRMATION]

RON TROUBA: We would extend that invitation, yes, to any of the existing commissioners or perspective ones and to any of the members of the Business and Labor Committee. [CONFIRMATION]

SENATOR CRAWFORD: Thank you. [CONFIRMATION]

SENATOR ALBRECHT: Any other questions? Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Mr. Trouba, thank you for visiting with us today. I did do "FireOps 101." And I have seen my life flash before my eyes. And you can have all my money just so that I don't have to fight fires. I appreciate the work that you do and I really do hope that the other members of this committee will do that, even though I didn't sell it very well, but it's really a good experience. It's a really good experience and I'm glad you're doing it again. [CONFIRMATION]

RON TROUBA: We have one on June 10, so if you're available, please let me know. [CONFIRMATION]

SENATOR HOWARD: I'm busy that day. (Laughter) [CONFIRMATION]

SENATOR ALBRECHT: Senator Halloran. [CONFIRMATION]

SENATOR HALLORAN: Madam Chair. Maybe you said this again, thanks for the testimony, but has anyone currently on the CIR experienced this with you? [CONFIRMATION]

RON TROUBA: Not to my knowledge, no, sir. [CONFIRMATION]

SENATOR HALLORAN: Okay. Thank you. [CONFIRMATION]

SENATOR ALBRECHT: Other questions? Do you...I just have one...so do you...are you aware of the people that are on CIR right now? [CONFIRMATION]

RON TROUBA: Not all of them by name; I couldn't name them. [CONFIRMATION]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Business and Labor Committee
May 18, 2017

SENATOR ALBRECHT: But are any of them labor people that you know of? I mean, I don't, that's why I thought... [CONFIRMATION]

RON TROUBA: I wouldn't say that they tend to favor labor. [CONFIRMATION]

SENATOR ALBRECHT: They would tend to favor labor? [CONFIRMATION]

RON TROUBA: No, I said...I would not say that they tend to favor labor. [CONFIRMATION]

SENATOR ALBRECHT: But would you think...if...just hypothetically, if you were offered the position to sit on the board, do you think that we should look differently because you come from a labor background? [CONFIRMATION]

RON TROUBA: I think if I was offered that opportunity, I should take any chance I had to better understand the employer's perspective since I would have little experience from that side. [CONFIRMATION]

SENATOR ALBRECHT: Okay. Thank you. [CONFIRMATION]

RON TROUBA: Thank you. [CONFIRMATION]

SENATOR ALBRECHT: Do we have any other folks wanting to speak in a neutral position? Anyone else wishing to speak in a neutral position? That will end the public hearing. And we're going to go into Executive Session. So thank you all for coming and we'll be getting back to you, sir. Thanks for coming. [CONFIRMATION]