

**MINUTES OF THE
BUSINESS AND LABOR INTERIM COMMITTEE**

Wednesday, September 19, 2007 – 9:00 a.m. – Room W125 House Building

Members Present:

Sen. Kevin T. VanTassell, Senate Chair
Rep. Stephen D. Clark, House Chair
Sen. Gene Davis
Sen. John W. Hickman
Sen. Ed Mayne
Sen. Wayne L. Niederhauser
Rep. Jackie Biskupski
Rep. David Clark
Rep. Carl W. Duckworth
Rep. James A. Dunnigan
Rep. Kevin S. Garn
Rep. Todd E. Kiser

Rep. Karen W. Morgan
Rep. Michael T. Morley
Rep. Paul A. Neuenschwander
Rep. Gordon E. Snow
Rep. Mark W. Walker

Members Absent:

Sen. Dan R. Eastman
Rep. Ben C. Ferry

Staff Present:

Ms. Allison M. Nicholson, Policy Analyst
Ms. Patricia Owen, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair VanTassell called the meeting to order at 9:07 a.m.

Ms. Nicholson noted a change in the minutes of the July 18, 2007 meeting that were included in the mailing packet. She said that on page two, third paragraph down, second line, the word "advocate" was changed to "adjudicate" to better reflect the purpose of the Utah Labor Commission. Corrected copies of the minutes were passed out to legislators at the beginning of the meeting.

MOTION: Sen. Hickman moved to approve the corrected minutes of the July 18, 2007 meeting. The motion passed unanimously with Sen. Davis, Sen. Mayne, and Rep. Walker absent for the vote.

2. Remedy for Alleged Sexual Harassment

Mr. Robert Wilde, private attorney, discussed a letter from him to the Committee, a document titled "Title 34A, Chapter 5, Utah Antidiscrimination Act," and other materials he prepared that were mailed to the Committee prior to the meeting. He explained that several of his clients have had discrimination suits dismissed in court because the employer had less than 15 employees. He said he would like to see the current state antidiscrimination law changed so that it would apply to employers with 5 or more employees, instead of 15 or more employees.

3. Employer Pay Practices

Mr. Brandt Goble, Field Representative, Painters and Allied Trades, Local Union No. 77, said he believes there is a problem with misclassification of employees in his industry. He said he feels the largest problem appears to be in the residential construction area because of the nature of the work. He voiced his concern that if these employers are cutting corners on required insurance, they may also be cutting corners on other aspects of their work, including safety regulations, and passed out pictures showing alleged safety

violations. Mr. Goble spoke in support of increasing enforcement resources to pursue employers that are not following current laws.

Sen. Mayne distributed and discussed an editorial and an article from *The Salt Lake Tribune* entitled "Under the table" and "Shadow wages" respectively.

Mr. John Dee Grow, President, Painting and Decorating Contractors of America, Salt Lake Chapter, said he feels that when used properly, the IRS 1099 form can be legitimate but misuse exists. He indicated that the enforcement of current laws is difficult with current resources, given the growth in the industry that is occurring in Utah.

Mr. F. David Stanley, Director, Division (Division of Occupational and Professional Licensing), said that the Division does not recommend additional laws or rules for contractors and subcontractors and commented on penalties that the Division imposes against licensees. He proposed that the Committee assign the Construction Services Commission to continue the study of unlawful pay practices and report recommendations to the Committee.

Mr. Brad Stevens, Chair, Construction Services Commission, agreed with Mr. Stanley's recommendation.

Ms. Sherrie Hayashi, Commissioner, Commission (Utah Labor Commission), said that the Commission's process is largely complaint-driven. She noted that there are good enforcement laws in place, but that additional resources may be needed. She commented that additional penalties for employers who continue to repeatedly misclassify their employees may be a helpful tool.

Mr. Bill Starks, Director, Unemployment Insurance, Department (Department of Workforce Services), said that the problem of misclassification is not only confined to the construction industry, and gave examples of other industries that also tend to use the "independent contractor" classification. He commented on the Department's auditors that work on compliance issues, and information sharing with other state agencies.

4. Health Care Working Group Update

Mr. Jason Perry, Director, GOED (Governor's Office of Economic Development), gave the Committee an update on a working group at GOED that has been studying health care issues in the state. He explained how the Working Group is using the \$350,000 appropriated to GOED during the 2007 General Session.

Mr. John T. Nielsen, Director, Health Insurance Exchange, GOED, explained that the Working Group has been studying programs in other states, and consulting with experts around the country to gather the best ideas of how to expand health insurance options for small business employees. He noted that the Working Group is looking at an "exchange" program with other possible changes.

Mr. Norm Thurston, Health Economist and Research Consultant, Utah Department of Health, said that the Working Group is still in its preliminary process and that it is still welcoming additional ideas. He said the Working Group wants to bring the best possible proposal to the Legislature for consideration.

Ms. Natalie Gochnour, Co-Chair, Health Care Working Group of the Financial Stability Council, United Way of Salt Lake, distributed and discussed "Utah Health System Reform." She explained that the United Way believes the best health insurance system for Utahns would be a system that relies on the private

market, encourages personal responsibility, maximizes consumer choice, and creates positive incentives to change. She also discussed five guiding principles that United Way believes will help create that system.

Mr. A. Scott Anderson, Chair, Board of Directors, United Way of Salt Lake, agreed with Ms. Gochnour's comments and added that the costs of health insurance need to be contained so that everyone can have basic health insurance coverage.

Mr. Kelly Atkinson, Executive Director, Utah Health Insurance Association, distributed and discussed "Health Insurance Exchange Unanswered Questions."

Mr. Don Garlitz, representing the Utah Association of Health Underwriters, discussed Utah's health insurance market. He believes that there is a problem with the number of Utahns that do not have health insurance, but cautioned against making certain changes to Utah's health insurance market.

Ms. Judy Hilman, Executive Director, Utah Health Policy Project, spoke in support of making changes to Utah's health care market to allow quality, affordable health insurance for as many Utahns as possible.

Ms. Chris Fawson, Legislation Coalition of People with Disabilities, spoke in support for making changes to Utah's health care market, and stressed the need for health insurance for people with disabilities.

Mr. Dan Barrus, citizen, distributed and discussed a copy of his comments. He spoke in support of affordable health insurance for all Utah citizens.

5. Other Items / Adjourn

MOTION: Rep. Morgan moved to adjourn the meeting. The motion passed unanimously with Sen. Hickman, Rep. Biskupski, and Rep. Garn absent for the vote.

Chair VanTassell adjourned the meeting at 11:48 a.m.