

**MINUTES OF THE
JUDICIARY INTERIM COMMITTEE**

Wednesday, April 16, 2008 – 9:00 a.m. – Room C450 State Capitol

Members Present:

Sen. Gregory S. Bell, Senate Chair
Rep. Eric K. Hutchings, House Chair
Sen. Lyle W. Hillyard
Sen. Peter C. Knudson
Sen. Ross I. Romero
Rep. Sheryl L. Allen
Rep. Jim Bird
Rep. Jackie Biskupski
Rep. Lorie D. Fowlke
Rep. Kevin S. Garn
Rep. Keith Grover
Rep. Neil A. Hansen
Rep. Gregory H. Hughes
Rep. Christine A. Johnson
Rep. Kay L. McIff
Rep. R. Curt Webb
Rep. Mark A. Wheatley

Staff Present:

Jerry D. Howe, Policy Analyst
Esther Chelsea-McCarty, Associate General Counsel
Amanda K. Majers, 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 Bell called the meeting to order at 9:13 a.m.

MOTION: Sen. Knudson moved to approve the minutes of the November 14, 2007 meeting. The motion passed unanimously with Sen. Hillyard, Rep. Allen, Rep. Biskupski, Rep. Garn and Rep. Grover absent for the vote.

2. WiFi in Utah: Legal and Social Issues

Professor Cheryl B. Preston, Visiting Professor, S.J. Quinney College of Law, University of Utah; Edwin M. Thomas Professor of Law, J. Reuben Clark Law School, Brigham Young University, discussed "WiFi in Utah: Legal and Social Issues," which was distributed to the Committee prior to the meeting. Prof. Preston stated that there are two main problems concerning the use of WiFi in Utah. The first issue, she contended, centers on cyber criminals being able to access unsecured WiFi signals. Prof. Preston explained that the second problem concerns the ability of minors to access pornography using unprotected WiFi networks. She further contended that the solution lies in regulating WiFi by requiring residences to place a password on their WiFi, as well as requiring security on free WiFi access in public places.

Prof. Preston answered the Committee's questions concerning the regulation of WiFi.

3. Condominium and Community Association

Rep. Webb distributed and discussed 2009 General Session draft legislation, "Condominium and Community Association Provisions" and "H.B. 400, Condominium and Community Association Provisions, Rep. R. Curt Webb." Rep. Webb stated that the draft legislation would require an agent for a homeowners association to register with the Division of Corporations and Commercial Code. Rep. Webb explained that the draft legislation also addresses the contents of an association's notice of lien on a unit.

Rep. Webb answered the Committee's questions concerning the draft legislation.

Mr. Rolf Berger, Kirton and McConkie, distributed and discussed "1st Sub. H.B. 400, Condominium and Community Association Provisions," an amendment that Sen. Michael G. Waddoups intended to propose in the 2008 General Session if H.B. 400 had come up for consideration in the Senate.

Mr. Keith Stephenson, American Resort Development Association, along with Mr. Steven D. Peterson and Mr. Steve Newman with Ballard Spahr Andrews and Ingersoll, spoke in opposition to the draft legislation because it would weaken consumer protection in respect to timeshare ownership, harm Utah's growing timeshare industry, and deny the ability of homeowners associations to pursue nonjudicial foreclosure on uncontested lien assessments.

Chair Bell asked Mr. Peterson his opinion as to the best way to address the title issues.

Mr. Peterson stated that national title insurance companies currently allow the naming of a trustee in documents, and explained that the trustee issue has been mitigated but should be remedied by legislation. However, Mr. Peterson stated that on the policy issue concerning common interest communities the status quo is sufficient; because, if someone is delinquent they have ample opportunity to respond before foreclosure is pursued. He insisted that this is not an instance where people lose their property in a short time with no notice, and stated that in his opinion the draft legislation is legislation in search of a problem that does not exist.

Mr. John Morris spoke in opposition of the draft legislation.

MOTION: Rep. Webb moved to adopt 2009 General Session draft legislation, "Condominium and Community Association Provisions," as a committee bill.

SUBSTITUTE MOTION: Rep. Fowlke moved to consider 2009 General Session draft legislation, "Condominium and Community Association Provisions," at another meeting during the interim for further study. The motion passed unanimously with Sen. Hillyard, Sen. Knudson, and Rep. Hughes absent for the vote.

4. Review of Statutory Reports and Sunset Reviews

Mr. Howe discussed "Statutory Reports and Sunset Reviews Judiciary Interim Committee 2008," which was distributed to the Committee prior to the meeting.

Rep. Allen asked staff to clarify that the base combined child support obligation table and the medical malpractice arbitration agreements were the tables that have been reviewed in recent years.

Ms. Chelsea-McCarty added that the child support obligation tables were changed two years ago by placing a delayed effective date, creating two tables. She stated that the former set is due to expire in 2010 and the new tables will become effective at the specified date. Ms. Chelsea-McCarty indicated that due to these factors little review may actually be required of the child support obligation tables.

5. Master Study Resolution - Committee Discussion

Chair Bell discussed, "S.J.R. 11, Master Study Resolution 2008 General Session," which was distributed to the Committee prior to the meeting.

Rep. McIff inquired about what will actually be studied when considering protective orders as an item of interest on the master study resolution.

Rep. Hutchings explained that there is often misunderstanding concerning protective orders in that they often result in entrapment, with the person holding the protective order inducing a breach of the protective order by the other party.

6. Other Business / Adjourn

Rep. Allen stated that she will be working on the issue of youth sharing information harmful to themselves through electronic media devices, and will be looking closely at the laws concerning that issue.

MOTION: Rep. Biskupski moved to adjourn the meeting. The motion passed unanimously with Sen. Hillyard, Sen. Knudson, and Rep. Hughes absent for the vote.

Chair Bell adjourned the meeting at 11:27 a.m.