

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

Wednesday, November 16, 2011 – 8:00 a.m. – Room 210 Senate Building

Members Present:

Sen. John L. Valentine, Senate Chair
Rep. James A. Dunnigan, House Chair
Sen. Curtis S. Bramble
Sen. Gene Davis
Sen. David P. Hinkins
Sen. Daniel R. Liljenquist
Sen. Karen Mayne
Sen. Kevin T. Van Tassell
Rep. Jim Bird
Rep. Derek E. Brown
Rep. Melvin R. Brown
Rep. Brian Doughty
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Eric K. Hutchings
Rep. Don L. Ipson

Rep. Todd E. Kiser
Rep. Bradley G. Last
Rep. Dixon M. Pitcher
Rep. Larry B. Wiley
Rep. Brad R. Wilson

Members Absent:

Rep. Francis D. Gibson
Rep. Michael T. Morley
Rep. Jennifer M. Seelig

Staff Present:

Mr. Bryant R. Howe, Assistant Director
Ms. Patricia Owen, Associate General Counsel
Mr. Robert H. Rees, Associate General Counsel
Ms. Jennifer Christopherson, 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 Dunnigan called the meeting to order at 8:17 a.m.

MOTION: Sen. Valentine moved to approve the minutes of the October 19, 2011 meeting. The motion passed unanimously with Rep. Melvin Brown and Rep. Hutchings absent for the vote.

Chair Dunnigan distributed the "Preliminary Annual Report of the Health System Reform Task Force" and explained that the task force recommends no additional state health insurance mandates until more is known about the essential health benefits under federal health care reform.

2. Enhanced Business Plan for the Retail Operations of the Department of Alcoholic Beverage Control

Mr. Bob Springmeyer, President, Bonneville Research, gave an introduction about the scope of the Department of Alcoholic Beverage Control (DABC) and said that the DABC is a \$300,000,000 business.

Mr. Jonathan Springmeyer, Vice President, Bonneville Research, gave a slide presentation on Bonneville Research's review of the retail operations of the DABC, which was distributed in the mailing packet. Among other things, the report recommended that employee training be improved, certain retail stores be consolidated, and licensee compliance functions be transferred to the Department of Commerce.

Mr. Bob Springmeyer and Mr. Jonathan Springmeyer responded to questions from the Committee and recommended selling liquor through package agencies near, but not inside, grocery stores.

Mr. Jim Clark, former senior executive, Lucky and American retail stores, commented that by transferring licensing oversight functions to the Department of Commerce, the Board of Alcoholic Beverage Control could better monitor the sales operations of the DABC.

Mr. Greg Buxton, Division of Facilities Construction and Management (DFCM), responded to the Bonneville

report and provided additional information on challenges associated with the siting of state liquor stores.

Mr. John Nichols, DFCM, said the main reasons the DABC is paying the DFCM above market rental rates is because these rates were set before the current real estate market downturn.

3. Report of the Worker Classification Enforcement Council

Sen. Mayne thanked the Committee and introduced the presenters of the review.

Mr. Alan Hennebold, Commissioner, Utah Labor Commission, gave a report on the results of legislation regarding the misclassification of employees. He stated that many businesses have either corrected the problem or withdrawn from the business.

Ms. Francine Giani, Executive Director, Utah Department of Commerce, listed a number of actions the Worker Classification Enforcement Council has taken and is currently taking and said that 2011 General Session S.B. 35 Second Substitute, "Construction Licensees Related Amendments," is doing exactly what it was intended to do.

Chair Dunnigan relinquished the chair to Sen. Valentine.

4. Insurance Amendments

Rep. Dunnigan distributed the amendment to 2012 General Session draft legislation, "Insurance Amendments" (2012FL-0064/016).

MOTION: Rep. Dunnigan moved to make the following amendment:

Page 82, Lines 2535 through 2540:

2535 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
2536 {+} and {+}
2537 { (iii) a check issued by a farm credit service authorized under the Farm Credit Act of
2538 1971, 12 U.S.C. Sec. 2001 et. seq., as amended, may be disbursed on the same day the check is
2539 deposited; and }
2540 {+} (iii) {+} {-(iv)-} the proceeds of one or more of the following financial
instruments may be

The motion passed unanimously with Sen. Van Tassell and Rep. Hutchings absent for the vote.

Rep. Dunnigan explained that 2012 General Session draft legislation, "Insurance Amendments" (2012FL-0064/016), is a clean up bill.

Mr. Neal Gooch, Deputy Insurance Commissioner, said that sections of the draft legislation, relating to surplus lines, bring Utah's licensing requirements for surplus producers into accordance with federal legislation.

Rep. Dunnigan stated that, among other things, the draft legislation addresses catastrophic coverage for mental health conditions, modifies special requirements for bail bond producers and bail bond enforcement agents, and addresses the insurance commissioner's administrative actions. He responded to questions from the Committee.

MOTION: Sen. Davis moved to approve 2012 General Session draft legislation, "Insurance Amendments"

(2012FL-0064/016), as amended, as a committee bill. The motion passed unanimously with Sen. Hinkins and Rep. Doughty absent for the vote.

Rep. Kiser recognized the new insurance department deputy director, Mr. Brett Barratt.

5. Fire Prevention and Fireworks Amendments

Rep. Dunnigan discussed 2012 General Session draft legislation, "Fireworks Amendments" (2012FL-0288/009), which was distributed in the mailing packet. He explained that it modifies the times during which fireworks may be sold and discharged. He responded to questions from the Committee.

Mr. Brent Halladay, Utah State Fire Marshal, spoke in favor of the draft legislation.

Mr. Dave Davis, President, Utah Retail Merchants Association, spoke in favor of the draft legislation and expressed concern that the time frame for inspections will be shortened. He responded to questions from the Committee.

MOTION: Chair Valentine moved to amend line 25 of 2012 General Session draft legislation, "Fireworks Amendments" (2012FL-0288/009), changing the date from July 26 to July 27. The motion passed unanimously with Sen. Liljenquist absent for the vote.

Committee discussion followed.

Mr. Brent Halladay commented that the standardization of 11 a.m to 11 p.m. would be easy for everyone to understand and meets the needs of the fireworks situation.

Mr. Brent Halladay and Rep. Dunnigan responded to questions from the Committee stating that licensed professional fireworks displays are not governed by the section of the code being amended.

MOTION: Rep. Dunnigan moved to approve 2012 General Session draft legislation, "Fireworks Amendments" (2012FL-0288/009), as amended, as a committee bill. The motion passed with Rep. Melvin Brown voting in opposition and Rep. Ipson absent for the vote.

Chair Valentine relinquished the chair to Rep. Dunnigan.

6. Amendments to the State Building Code and the Fire Prevention Code

Mr. Ted Black, Chair, State Fire Prevention Board, explained that 2012 General Session draft legislation, "State Fire Code Amendments" (2012FL-0497/003), which was distributed in the mailing packet, enacts a definition of "premixed" with respect to antifreeze and water solution, deletes and replaces a provision related to hazardous conditions, and modifies provisions relating to antifreeze used in automatic sprinkler systems.

Mr. Howe reviewed 2012 General Session draft legislation, "State Construction Code Amendments" (2012FL-0498/004), that was distributed in the mailing packet. He said that the draft legislation adopts by reference the 2011 Edition of the the National Electrical Code, enacts a new exception to the International Building Code related to concrete durability requirements, and adopts amendments to the International Plumbing Code by certain local governments.

MOTION: Rep. Wiley moved to adopt 2012 General Session draft legislation, "State Fire Code Amendments"

(2012FL-0497/003), and 2012 General Session draft legislation, "State Construction Code Amendments" (2012FL-0498/004). The motion passed unanimously with Sen. Bramble, Sen. Liljenquist, Rep. Bird, and Rep. Duckworth absent for the vote.

7. Mechanics' Liens Amendments

Committee staff distributed 2012 General Session draft legislation, "Mechanics Lien Revisions" (2012FL-0131/002). This item was not discussed.

8. Portable Electronics Insurance Related Amendments

Rep. Kiser distributed 2012 General Session draft legislation, "Portable Electronics Insurance Related Amendments" (2012FL-0503/011).

MOTION: Rep. Kiser moved to adopt 2012 General Session draft legislation, "Portable Electronics Insurance Related Amendments" (2012FL-0503/011). The motion passed unanimously with Sen. Liljenquist, Rep. Bird, and Rep. Duckworth absent for the vote.

MOTION: Rep. Kiser moved to amend lines 1353 and 1362 by changing the words "charges" to "premium" in 2012 General Session draft legislation, "Portable Electronics Insurance Related Amendments" (2012FL-0503/011). The motion passed unanimously with Sen. Bramble, Sen. Liljenquist, Rep. Bird, and Rep. Duckworth absent for the vote.

Rep. Kiser discussed 2012 General Session draft legislation, "Portable Electronics Insurance Related Amendments" (2012FL-0503/011), and said that it would enact the Portable Electronics Insurance Act that would require vendors to hold a limited lines license and provide for application fees. He explained that the draft legislation also addresses claims adjusting.

Mr. Larry Ringers, Asurion, added that the draft legislation benefits both retailers and consumers by creating a regulatory structure and ensures full disclosure to consumers of the terms and conditions of their insurance.

Mr. Neal Gooch, Commissioner, Utah Insurance Department, and Mr. Ringers responded to questions from the Committee.

MOTION: Rep. Kiser moved to approve 2012 General Session draft legislation, "Portable Electronics Insurance Related Amendments" (2012FL-0503/011), as a committee bill. The motion failed with Sen. Hinkins, Sen. Liljenquist, Sen. Mayne, Sen. Valentine, Sen. Van Tassell, Rep. Bird, Rep. Derek Brown, Rep. Hutchings, Rep. Last, Rep. Pitcher, and Rep. Wilson voting in opposition and Sen. Bramble, Rep. Melvin Brown, Rep. Froerer, Rep. Ipson, and Rep. Wiley absent for the vote.

Chair Dunnigan relinquished the chair to Sen. Valentine.

9. General Contractor Amendments

Rep. Dunnigan provided background and explained that 2012 General Session draft legislation, "General Building Contractor Amendments" (2012FL-0474/003), that was distributed in the mailing packet, provides that a general contractor must have an elevator mechanic perform work on the operating integrity of an elevator.

MOTION: Sen. Mayne moved to approve 2012 General Session draft legislation, "General Building

Contractor Amendments" (2012FL-0474/003) as a committee bill. The motion passed unanimously with Sen. Bramble, Sen. Hinkins, Rep. Melvin Brown, Rep. Froerer, Rep. Kiser, and Rep. Wiley absent for the vote.

10. Dispensing Contact Lenses and Eyeglasses

Rep. Dunnigan discussed 2012 General Session draft legislation, "Amendment to Utah Optometry Practice Act" (2012FL-0495/008), which was distributed in the mailing packet, and said that it allows a person in certain circumstances to sell, fit, adjust, and dispense eyeglasses or spectacles without being licensed, requires a prescription for eyeglasses, and specifies the activities that an unlicensed person may engage in regarding the sale or dispensing of eyeglasses.

Ms. Cathy McCallum, 1-800-CONTACTS, spoke in favor of the draft legislation and said that it allows companies to progress forward recognizing the right of the consumer to shop at their convenience.

Dr. Blaine Bird, Utah Optometric Association, spoke in favor of the draft legislation but noted concerns with the language dealing with the need for prescriptions to replace broken spectacles and how a prescription is developed.

MOTION: Rep. Ipson moved to approve 2012 General Session draft legislation, "Amendment to Utah Optometry Practice Act" (2012FL-0495/008), as a committee bill. The motion passed with Rep. Hutchings voting in opposition and Sen. Bramble, Sen. Hinkins, Rep. Melvin Brown, Rep. Froerer, Rep. Kiser, and Rep. Wiley absent for the vote.

Chair Valentine relinquished the chair to Rep. Dunnigan.

11. Exemption from Licensure for Certain Cosmetology Services Associated with the Film Production Industry

Rep. Holly J. Richardson reviewed 2012 General Session draft legislation, "Barber, Cosmetologist, Esthetician, Electrologist, and Nail Technician Act Amendments" (2012FL-0556/002), that was distributed in the mailing packet, and said that it is an exemption for people who come into the state temporarily to film motion pictures. She responded to questions from the Committee.

MOTION: Sen. Valentine moved to approve 2012 General Session draft legislation, "Barber, Cosmetologist, Esthetician, Electrologist, and Nail Technician Act Amendments" (2012FL-0556/002), as a committee bill. The motion passed unanimously with Sen. Bramble, Sen. Hinkins, Rep. Melvin Brown, Rep. Froerer, Rep. Ipson, and Rep. Wiley absent for the vote.

12. Mobile Home Park Residency Act Amendments

Rep. Janice M. Fisher gave a background of 2012 General Session draft legislation, "Mobile Home Park Residency Act Amendments" (2012FL-0532/004), that was distributed in the mailing packet, and said that the main goal is to require open communication between residents, managers, and landowners.

Mr. Steve Anderson, Utah Manufactured Homeowners' Action Group, explained that this draft legislation establishes a process for a resident group to challenge a proposed rent or service charge increase, a proposed tenancy rule change, or a proposed assessment.

Rep. Fisher and Mr. Anderson responded to questions from the Committee and said the phrase "burden of proof" was included in the draft legislation because residents should know how rent money is being spent.

Mr. Darren Menlove, Utah Housing Alliance, spoke in opposition to the draft legislation and stated that open communication now exists between landlords and tenants and that, as a non-government subsidized housing option, they should be able to improve their property without tying it to a mediation process.

Mr. Rick Bills, property owner, American Heritage Retirement, spoke in opposition to the draft legislation and said that property owners do not have the ability to raise the rent at any time. He responded to questions from the Committee.

Mr. Lowell Gallager, Vice President, Utah Manufactured Homes Action Association, spoke in favor of the draft legislation and stated that when a company ignores their customers, the company is in trouble.

Mr. Richard McMullen, attorney for Kingsley Management, spoke in opposition to the draft legislation and said that this is dealing with contract law, and the free market should take care of it. He responded to questions from the Committee.

MOTION: Sen. Davis moved to recommend 2012 General Session draft legislation, "Mobile Home Park Residency Act Amendments" (2012FL-0532/004), as a high priority committee bill. Committee discussion followed.

SUBSTITUTE MOTION: Sen. Liljenquist moved to proceed to the next agenda item. Committee discussion followed. The substitute motion passed with Sen. Davis, Sen. Mayne, Rep. Hutchings and Rep. Pitcher voting in opposition and Sen. Bramble, Sen. Hinkins, Rep. Melvin Brown, Rep. Froerer, Rep. Ipson, and Rep. Wiley absent for the vote.

13. Payday Lending Database

Rep. Bradley M. Daw introduced the topic saying that borrowers are sometimes trapped in the payday lending system and never able to fully pay off all of their payday loans.

Mr. Mike Hanna, Veritec, discussed the desirability of establishing a private and secure database as a tool to ensure that certain limits on payday loans are enforced.

Rep. Daw distributed the AARP letter of support for the proposal.

Ms. Wendy Gibson, Utah Consumer Lending Association, spoke in opposition to the proposal and stated that a lending database forces consumers to go to unregulated internet lenders. She responded to questions from the Committee.

14. Other Items / Adjourn

MOTION: Sen. Davis moved to adjourn the meeting. The motion passed unanimously with Sen. Bramble, Sen. Mayne, Rep. Melvin Brown, Rep. Froerer, Rep. Ipson, Rep. Last, Rep. Wiley, and Rep. Wilson absent for the vote.

Chair Dunnigan adjourned the meeting at 12:03 p.m.