

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

Wednesday, June 17, 2015 – 9:00 a.m. – Room 210 Senate Building

**Members Present:**

Sen. Curtis S. Bramble, Senate Chair  
Rep. Val L. Peterson, House Chair  
Sen. J. Stuart Adams  
Sen. Gene Davis  
Sen. Deidre M. Henderson  
Sen. Karen Mayne  
Sen. Ralph Okerlund  
Sen. Todd Weiler  
Rep. Jacob L. Anderegg  
Rep. Jon Cox  
Rep. Susan Duckworth  
Rep. Gage Froerer  
Rep. Brad King  
Rep. John Knotwell

Rep. Dixon M. Pitcher  
Rep. Marc K. Roberts  
Rep. Mike Schultz  
Rep. Brad R. Wilson

**Members Absent:**

Rep. James A. Dunnigan  
Rep. Jon E. Stanard

**Staff Present:**

Mr. Joseph T. Wade, Policy Analyst  
Ms. Patricia Owen, Associate General Counsel  
Mr. Samuel C. Johnston, Associate General Counsel  
Ms. Lucy W. Daynes, 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](http://www.le.utah.gov).

**1. Committee Business**

Chair Bramble called the meeting to order at 9:11 a.m.

**MOTION:** Rep. Duckworth moved to approve the minutes of the May 20, 2015, meeting. The motion passed unanimously with Sen. Adams, Sen. Okerlund, Rep. Anderegg, Rep. Cox, Rep. Peterson, Rep. Pitcher, and Rep. Wilson absent for the vote.

**2. Other Items**

Chair Bramble explained that the committee has been asked by the Department of Commerce to address administrative expungements.

**MOTION:** Sen. Henderson moved to open a bill file for administrative expungement amendments. The motion passed unanimously with Sen. Adams, Rep. Anderegg, Rep. Cox, Rep. Pitcher, and Rep. Wilson absent for the vote.

**3. Consumer Financial Protection**

Ms. Owen presented and distributed "Consumer Credit & the Dodd-Frank Act" to the committee. She explained two portions of the Dodd-Frank Act: (1) the creation of the federal Consumer Financial Protection Bureau, and (2) changes to federal preemption.

The committee discussed the issue.

**4. Bail**

Mr. Wade gave a presentation "Bail and Bail Bonds," explaining the origin of this agenda item, bail provisions in the Utah Constitution and statutes, the purpose for bail, the process of setting and posting

bail, and the uniform bail schedule. He gave an example of a judge setting bail at \$500 if paid in cash and \$5,000 if bonded. He further explained that bail bond companies typically charge a 10% fee.

Mr. Wayne Carlos, President, Utah Association of Professional Bondsmen and Agents, explained the role of bail bonds in the justice system and the interest of bondsmen in getting defendants to court. He stated that the bail bond industry has low bail forfeiture rates and costs nothing to the public. He said that bail bond agents are concerned with warrants not being posted on the state registry or on the National Crime Information Center. He explained that if there is a widespread practice of judges setting cash bail at lower amounts than bonded bail, then the bail bond industry will be hurt and bailed individuals will appear in court at lower rates. Mr. Carlos answered questions from the committee.

Mr. Rick Schwermer, Assistant State Court Administrator, Administrative Office of the Courts, explained that the Judicial Council is studying different pretrial release practices, one of which is bail. He agreed that some of the judges in the Utah County Fourth District Court have been setting bonded bail at amounts greater than cash bail. He explained that the court puts cash bail in a trust, to either be returned to the defendant or used for fees and restitution after conviction. Mr. Schwermer answered questions from the committee regarding the purpose of bail, appearance rates for cash and bonded bail, and the distribution of bail paid in cash.

Mr. Tim Taylor, Acting County Attorney, Utah County Attorney's Office, described the development of the Fourth District Court program offering low cash bail for low-risk individuals. He said that in the perspective of the Utah County Attorney's Office, cash bail versus bonded bail for the same face value are not actually of the same value because they have different out-of-pocket expenses. He stated that the police, not bail bondsmen, are typically the entity that finds individuals who failed to appear in court. Mr. Taylor answered questions from the committee.

Mr. David Walsh, Salt Lake County District Attorney's Office, explained that Salt Lake County uses a pretrial service to release low-risk individuals from jail without bail and ensure their appearance in court. He said that in his 35 years of experience, he only remembers one instance of a forfeiture against a large cash-only bond. In district court, he explained, almost all bonds are posted by bondsmen. He said that the term "forfeiture" is confusing because within justice courts a "bond forfeiture" means something different than in criminal courts. He further explained that there are situations when warrants are not posted on the National Crime Information Center because it would be cost prohibitive to bring the individual back to Utah from another state.

Mr. Kent Hart, Executive Director, Utah Association of Criminal Defense Lawyers, addressed the constitutional right to the presumption of innocence and the effect of bail systems on the freedom of people accused of crimes. He listed other pretrial release tools that can be used by the courts in addition to or instead of monetary bail, such as monitoring, reporting, and electronic devices. He encouraged the committee to consider the future recommendations of the Judicial Council on pretrial release.

Mr. Gordon Wright, 1<sup>st</sup> Out Bail Bonds, described specific cases of cash bail that resulted in nonappearance. He said that he tracked 10 cases of cash bail, and that in eight of them the individual did not appear in court. He asked the Legislature to require courts to set bail amounts to be equal whether it is paid in cash or with a bail bond. He questioned the statistics presented by other witnesses, and said that he, as a bail bondsman, has brought many individuals to jail.

Mr. Brad Jenkins, Sportsman's Bail Bonds, outlined the role of bail bondsmen in assuring appearance in courts. He said that for many bail companies, including Sportsman's Bail Bonds, there is a nonappearance rate of less than 1%.

Mr. Gary Walton, Beehive Bail Bonds, said that national studies have shown that 10% cash deposit programs, like the program in consideration, are less effective than any other form of release, including commercial bail bonds. He said that data supports the bail bondsmen's success in having defendants appear.

Mr. Roger Hayes, Aladdin Bail Bonds, said that commercial bail has worked across the country and that studies show that it is the most effective form of pretrial release. He noted that commercial bail, unlike government pretrial release services, is not at taxpayers' expense.

The committee discussed the issue and asked Mr. Wade to gather relevant data.

## **5. State Construction and Fire Codes**

Mr. Johnston explained the process for changing State Construction Codes, which currently occurs in a three-year cycle, and distributed "Utah State Construction Code Adoption Cycle."

Rep. Wilson distributed draft legislation "Building Code Review and Adoption Amendments" (2016FL-0276/002) and noted provisions in it relating to the fire code for Farmington City and the 2014 National Electrical Code. After the 2015 cycle, he explained, the draft legislation would change the review and adoption process from a three-year cycle to a six-year cycle. He said that the legislation also asks the Uniform Building Code Commission (UBCC) for an annual report on recommended changes, with costs and benefits calculated for each recommended change.

Mr. Coy D. Porter, State Fire Marshall, added that the State Fire Code is amended on the same cycle as the State Construction Code, but that the State Fire Code is reviewed by the State Fire Prevention Board instead of the UBCC.

Mr. Gilbert Gonzalez, Chief Building Official, Murray City, said that his only concern with the draft legislation is changing the review of the International Residential Code to every other cycle. With this change, he said, the UBCC would not be able to review the International Residential Building Code again until 2021. He suggested that, instead of the proposed change, the UBCC review the International Residential Building Code at every three-year cycle and amend out items it does not like.

Mr. Kevin Emmerson, Senior Policy and Regulatory Associate, Utah Clean Energy, said that Utah Clean Energy supports many of the changes in the draft legislation. He stated that Utah Clean Energy's major concern is the potential missed opportunity to bring current structures up to the 2015 edition of the International Energy Conservation Code. He said that if the opportunity is missed this cycle, then with the new process it would take until 2021 or 2022 to see changes in the residential energy code. He recommended that the committee consider a cost-effectiveness study on the 2015 edition of the International Energy Conservation Code.

Ms. Kelly Francone, Executive Director, Utah Association of Energy Users, agreed that energy efficiency and conservation opportunities could be missed by increasing the number of years in the code review cycle. She said that homes and buildings should be required to be as energy efficient as possible.

Ms. Ingrid Griffie, Executive Director, Utah Moms for Clean Air, reiterated the need to review residential building codes for energy efficiency. She said that by keeping energy codes updated, the average resident will contribute to cleaner air. She recommends that Utah maintain the three-year code review cycle.

Rep. Wilson explained that during the review process the commission adopted changes that balance cost with term of payback. He said that part of the UBCC's concern is keeping houses affordable while keeping the code up to date. With his draft legislation, he said, the UBCC can make annual recommendations but only if they report the payback term for each recommendation.

**MOTION:** Sen. Adams moved to recommend draft legislation "Building Code Review and Adoption Amendments" as a committee bill. The motion passed unanimously with Sen. Bramble, Sen. Davis, Sen. Mayne, Sen. Okerlund, Sen. Weiler, Rep. Froerer, Rep. Roberts, and Rep. Schultz absent for the vote.

## **5. Other Items/Adjourn**

**MOTION:** Rep. Anderegg moved to adjourn the meeting. The motion passed unanimously with Sen. Bramble, Sen. Davis, Sen. Mayne, Sen. Okerlund, Sen. Weiler, Rep. Froerer, Rep. Roberts, and Rep. Schultz absent for the vote.

Chair Peterson adjourned the meeting at 11:54 a.m.