

**MINUTES OF THE HOUSE BUSINESS AND LABOR
STANDING COMMITTEE**
Room C450, State Capitol, Utah State Capitol Complex
February 18, 2008

Members Present: Rep. Stephen D. Clark, Chair
Rep. Jim Dunnigan, Vice Chair
Rep. Jackie Biskupski
Rep. David Clark
Rep. Ben Ferry
Rep. Gage Froerer
Rep. Kevin Garn
Rep. Neil A Hansen
Rep. Todd E. Kiser
Rep. Michael T. Morley
Rep. Paul Neuenschwander
Rep. Mark Walker

Members Absent: Rep. Carl W. Duckworth

Staff Present: Allison Nicholson, Policy Analyst
Linda Error, Committee Secretary

Note: List of visitors and a copy of handouts are filed with committee minutes.

Vice Chair Dunnigan called the meeting to order at 8:07 a.m.

MOTION: Rep. S. Clark moved to approve the minutes of the February 15, 2008 meeting. The motion passed unanimously, with Rep. D. Clark, Rep. Ferry, and Rep. Walker absent for the vote.

S.B. 179 *Salvage Vehicle Amendments (Sen. C. Walker)*

Sen. Walker introduced the bill to the committee with the assistance of Rolayne Fairclough, American Automobile Association of Utah. (handout)

MOTION: Rep. Garn moved to pass the bill out favorably. The motion passed unanimously, with Rep D. Clark, Rep. Ferry, and Rep. Walker absent for the vote.

MOTION: Rep. Garn moved to place S.B. 179 on the Consent Calender. The motion passed unanimously, with Rep. D. Clark, Rep. Ferry, and Rep. Walker absent for the vote.

H.B. 298 Transit Fare Reduction (Rep. W. Harper)

MOTION: Rep. Kiser moved to delete in title and body H.B. 298 and replace it with 1st Substitute H.B. 298. The motion passed unanimously, with Rep. Ferry and Rep. Walker absent for the vote.

Rep. Harper introduced the substitute bill to the committee.

MOTION: Rep. Neuenschwander moved to proceed to the next item on the agenda. The motion passed, with Rep. Biskupski voting in opposition. Rep. Walker was absent for the vote.

H.B. 384 Employee Obligations Related to Workers' Compensation (Rep. M. Morley)

Rep. Morley introduced the bill to the committee.

MOTION: Rep. Kiser moved to amend the bill as follows:

1. Page 4, Lines 113 through 114:

113 (C) a violation of a reasonable, written workplace health, safety, licensure, or
nondiscrimination rule that is applied in ~~{a~~
114 nondiscriminatory basis} a manner that is reasonable and nondiscriminatory ;

2. Page 4, Lines 115 through 117:

115 (b) the employee is incarcerated in a correctional facility for a period of time that
116 would result in the termination of the employee's reemployment in accordance with a
117 reasonable, written workplace that is applied in a ~~{nondiscriminatory basis}~~ a
manner that is reasonable and nondiscriminatory ;or

3. Page 5, Lines 127 through 128:

127 (ii) in accordance with a reasonable, written workplace that is applied in ~~{a~~
128 nondiscriminatory basis} a manner that is reasonable and nondiscriminatory .

4. Page 8, Lines 222 through 228:

222 (e) In determining under ~~{Subsection}~~ Subsections (1) (b) and (c)
whether an employee cannot perform other

223 work reasonably available, the following may not be considered:

224 (i) whether the employee is incarcerated in a facility operated by or contracting with

- a
- 225 federal, state, county, or municipal government to house a criminal offender in either a
226 secure
227 or nonsecure setting; or
228 (ii) whether the employee is not legally eligible to be employed because of a reason
unrelated to the impairment or combination of impairments.

5. *Page 11, Lines 330 through 332:*

- 330 (f) If a preponderance of the evidence shows that successful rehabilitation is not
331 possible, the administrative law judge shall order that the employee be paid weekly
332 permanent
332 total disability compensation benefits.

(g) If a preponderance of the evidence shows that successful rehabilitation is possible pursuant to a reemployment plan as prepared by a qualified rehabilitation provider and presented under Subsection (6)(e), an administrative law judge shall order that the employee be denied the payment of weekly permanent total disability compensation benefits regardless of whether the employee is:

- (i) incarcerated in a facility operated by or contracting with a federal, state, county, or municipal government to house a criminal offender in either a secure or nonsecure setting; or**
(ii) not legally eligible to be employed because of a reason unrelated to the impairment or combination of impairments.

1. *Page 4, Line 109:*

- 109 (ii) for just cause; and

2. *Page 5, Line 146 through Page 6, Line 160:*

- 146 (c) A reduction or termination of disability compensation under this Subsection (5)
147 takes effect on the day determined by the commission. { the order described in
Subsection (5)(b) is issued by the commission;
148 except that the following is treated as an offset against future obligations of the
employer or
149 employer's insurance carrier to pay disability compensation to the employee:
150 —(i) if the disability compensation is ordered terminated, the amount of disability
151 compensation paid to the employee:

152 ~~—(A) beginning on the day on which the employee begins to receive disability~~
153 ~~compensation; and~~
154 ~~—(B) ending on the day on which the disability compensation is terminated; or }~~
155 {~~(ii)~~} (d) If the disability compensation is ordered terminated or reduced,
the employer or employer's insurance carrier shall treat any resulting overpayment
as an offset against the employer or employer's insurance carrier's future obligations
to pay disability compensation to the employee. {~~if the disability compensation is~~
156 ~~ordered reduced; the amount calculated by~~
~~subtracting from the amount of disability compensation paid to the employee~~
157 ~~beginning on the~~
~~day on which the employee begins to receive disability compensation, and ending the~~
158 ~~day on~~
~~which the disability compensation is reduced; the amount the employee would have~~
159 ~~received~~
~~had the reduction in disability compensation been applied beginning on the day on~~
160 ~~which the~~
~~employee begins to receive disability compensation.~~ }

3. Page 15, Line 437:

437 the invalid provision or application.

Section 4. Effective date.

This act takes effect on July 1, 2008.

The motion to amend passed unanimously.

Spoke to the bill: Alan Hennebold, Utah Labor Commission

Spoke for the bill: Dennis Lloyd, Workers' Compensation Fund of Utah
Dave Davis, Utah Food Industry Association and Utah Retail
Merchants Association

Spoke against the bill: Richard Burke, Utah Association of Justice

MOTION: Rep. S. Clark moved to pass the bill out favorably and amend the bill as follows:

1. Page 1, Lines 26 through 2726 Other Special Clauses:
27 {~~None~~} This bill takes effect on July 1, 2008.

2. *Page 15, Line 437:*

437 the invalid provision or application.

Section 4. Effective date.

This [act] bill takes effect on July 1, 2008.

Rep. Biskupski called for a division on the motion.

The motion to amend passed unanimously, with Rep. D. Clark and Rep. Neuenschwander absent for the vote.

SUBSTITUTE

MOTION: Rep. Biskupski moved to proceed to the next item on the agenda. The motion failed, with Rep. Biskupski and Rep. Hansen voting in favor.

The original motion to pass the bill out favorably passed, with Rep. Biskupski and Rep. Hansen voting in opposition. Rep. D. Clark and Rep. Neuenschwander were absent for the vote.

H.B. 400 Condominium and Community Association Provisions (*Rep. R. C. Webb*)

Rep. Webb introduced the bill to the committee.

MOTION: Kiser moved to delete in title and body H.B. 400 and replace it with 1st Substitute H.B. 400. The motion passed unanimously, with Rep. D. Clark, Rep. Morley, and Rep. Neuenschwander absent for the vote

Spoke against the bill: Marla Mott-Smith, Utah Chapter, Community Associations Institute
Dale Cromar, Utah Chapter, Community Associations Institute

Spoke to the bill: Sam Bell, attorney, Kirk A. Cullimore

Spoke for the bill: Paul Newton, Utah Land Title Association

MOTION: Rep. Garn moved to pass the bill out favorably. The motion passed, with Rep. Biskupski and Rep. Hansen voting in opposition. Rep. D. Clark and Rep. Morley were absent for the vote.

1st Sub S.B. 56 Naturopathic Physician Amendments (*Sen. S. McCoy*)

Sen. McCoy introduced the bill to the committee, with the assistance of Dr. Benton Bramwell, American Association of Naturopathic Physicians.

Spoke to the bill: David Stanley, Division of Occupational and Professional Licensing

MOTION: Rep. Hansen moved to pass the bill out favorably. The motion passed unanimously, with Rep. D. Clark, Rep. Ferry, Rep. Froerer, and Rep. Morley absent for the vote.

MOTION: Rep. Hansen moved to place S.B. 56 on the Consent Calendar. The motion passed unanimously, with Rep. D. Clark, Rep. Ferry, Rep. Froerer, and Rep. Morley absent for the vote.

S.B. 114 Notary Public Revision (*Sen. G. Bell*)

Sen. Bell introduced the bill to the committee.

MOTION: Rep. Kiser moved to pass the bill out favorably. The motion passed unanimously, with Rep. D. Clark and Rep. Morley absent for the vote.

MOTION: Rep. Neuenschwander moved to place S.B. 114 on the Consent Calendar. The motion passed unanimously, with Rep. D. Clark and Rep. Morley absent for the vote.

S.B. 143 Insurance Financial Requirements (*Sen. K. VanTassell*)

Sen. VanTassell introduced the bill to the committee.

MOTION: Rep. S. Clark moved to pass the bill out favorably. The motion passed unanimously, with Rep. D. Clark, Rep. Garn, Rep. Hansen, and Rep. Morley absent for the vote.

MOTION: Rep. Neuenschwander moved to place S.B. 143 on the Consent Calendar. The motion passed unanimously, with Rep. D. Clark, Rep. Garn, Rep. Hansen, and Rep. Morley absent for the vote.

S.B. 98 Licensing of Security Services (*Sen. D. Eastman*)

Sen. Eastman introduced the bill to the committee with the assistance of Robert Anderton, ASIS International.

MOTION: Rep. Ferry moved to pass the bill out favorably. The motion passed unanimously,

with Rep. D. Clark, Rep. Garn, Rep. Hansen, and Rep Morley absent for the vote.

MOTION: Rep. Neuenschwander moved to adjourn the meeting. The motion passed unanimously, with Rep. D. Clark, Rep. Garn, Rep. Hansen, and Rep. Morley absent for the vote.

Vice Chair Dunnigan adjourned the meeting at 10:02 a.m.

Rep. Stephen D. Clark, Chair