

**AMENDED MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W020 - House Building, State Capitol Complex**

February 12, 2010

MEMBERS PRESENT: Rep. Lorie D. Fowlke, Chair
Rep. Jim Bird, Vice Chair
Rep. Sheryl L. Allen
Rep. Jackie Biskupski
Rep. Francis Gibson
Rep. Keith Grover
Rep. Eric K. Hutchings
Rep. Christine A. Johnson
Rep. Brian King
Rep. Kay L. McIff
Rep. Kraig Powell

MEMBERS ABSENT: Rep. Mark A. Wheatley

STAFF PRESENT: Jerry D. Howe, Policy Analyst
Kathy Sorg, Committee Secretary

NOTE: A list of visitors and a copy of handouts are filed with the committee minutes.

Rep. Bird called the meeting to order at 2:14 p.m.

MOTION: Rep. Allen moved to convene the meeting in room W30 to accommodate all those who came to testify . The motion passed unanimously with Rep. Grover, Rep. Hutchings, Rep. Johnson and Rep. McIff absent for the vote.

The meeting was convened in room W30, House Building, State Capitol Complex at 2:20 p.m.

MOTION: Rep. Johnson moved to approve the minutes of the February 10, 2010 meeting. The motion passed unanimously with Rep. Hutchings and Rep. McIff absent for the vote.

H.B. 115 **Counsel for Indigents in Juvenile Court Proceedings** *(Rep. K. Powell)*

Rep. Powell explained the bill to the committee with the assistance of Rick Schwermer, Assistant State Court Administrator.

MOTION: Rep. Powell moved to amend H.B. 115 as follows:

1. Page 7, Line 212 through Page 8, Line 215:

212 (7) (a) ~~{The}~~ Except as provided in Subsections (b) and (c), the court
shall order a minor, parent, guardian, or custodian for whom counsel is
213 appointed and the parents or guardian of any child for whom counsel is appointed to
reimburse
214 the county for the cost of appointed counsel arising from any ~~{petition or~~
~~motion}~~ work of counsel that is not primarily directed at ~~{any~~
215 ~~party other than}~~ the state or the guardian ad litem.

(b) The court may not order reimbursement of the county pursuant to Subsection (a) for the cost of appointed counsel arising from any work of counsel that is specifically undertaken to defend against the filing of a petition to terminate parental rights after the petition has been filed, regardless of who filed the petition.

(c) The state, or an agency of the state, may not be ordered to reimburse the county pursuant to Subsection (a).

The motion to amend H.B. 115 passed unanimously with Rep. Hutchings and Rep. McIff absent for the vote.

MOTION: Rep. Johnson moved to pass H.B. 115 with a favorable recommendation. The motion passed unanimously with Rep. Hutchings and Rep. McIff absent for the vote.

H.B. 80 Public Access to Private Stream Beds (Rep. L. Fowlke)

Rep. Fowlke explained the bill to the committee.

MOTION: Rep. Fowlke moved to amend H.B. 80 as follows:

1. Page 3, Lines 80 through 85:

80 As used in this chapter:

81 (1) "Bed" means an area within the ordinary high water mark of a public water.

82 (2) "Harass" means:

83 (a) assault, as defined in Section 76-5-102; and

84 (b) an offense against an animal enterprise, as described in Section 76-6-110.

85 (3) "Impounded wetland" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages

the flow or depth of water, including connecting channels.

~~{(3)}~~ **(4)** "Ordinary high water mark" means:

2. *Page 4, Lines 92 through 96:*

92 line the water body impresses upon the soil, as defined in Subsection ~~{(3)}~~ **(4)** (a),
is not readily

93 identified.

94 ~~{(4)}~~ **(5)** "Permission" is as defined in Section 23-20-14.

95 ~~{(5)}~~ **(6)** "Private bed" means a privately owned bed of a public water.

96 ~~{(6)}~~ **(7)** "Private property to which access is restricted" means privately
owned real

3. *Page 4, Line 111 through Page 5, Line 121:*

111 ~~{(7)}~~ **(8)** (a) "Public water" means water:

112 (i) described in Section 73-1-1; and

113 (ii) flowing or collecting on the surface:

114 (A) within a natural or realigned channel; or

115 (B) in a natural lake, pond, or reservoir on a natural or realigned channel.

116 (b) "Public water" does not include water flowing or collecting on **:**

(i) impounded wetland;

(ii) jurisdictional wetland described in 33 C.F. R. 328.3;

(iii) a migratory bird production area, as defined in Section 23-28-102; or

(iv) private property in a

117 manmade:

118 ~~{(i)}~~ **(A)** irrigation canal;

119 ~~{(ii)}~~ **(B)** irrigation ditch; or

120 ~~{(iii)}~~ **(C)** impoundment or reservoir constructed outside of a natural or
realigned channel.

121 ~~{(8)}~~ **(9)** (a) "Recreational activity" means activity that:

4. *Page 5, Lines 149 through 151:*

149 (ii) the person walks or portages outside the bed around the manmade obstruction in

150 the most direct and least obtrusive manner to re-enter the **same body of** public water at
the nearest safe point

151 past the manmade obstruction.

5. *Page 6, Lines 160 through 162:*

160 (ii) A person walking or portaging in accordance with this Subsection (4)(b) shall
walk
161 or portage in the least obtrusive manner possible, leaving and reentering the private bed
of the same public water at a
162 safe point nearest to the obstacle.

The motion to amend H.B. 80 passed unanimously with Rep. Hutchings, Rep. McIff and Rep. Powel absent for the vote.

Spoke in favor of the bill: Scott Sabey, Ducks Unlimited.
 Fred Finlinson, Utah Water Coalition.
 David Kuehn, citizen.
 Jeff Salt, Great Salt Lakekeeper.
 Tyson Skeen, recreational user.
 Brett Allen, Utah Whitewater Club.
 David Serdar, angler.
 Ryan Frost, citizen.
 Jim Karpowitz, Director, Utah Division of Wildlife Resources.

Spoke against the bill: Steve Ault, Bear Canyon Ranch.
 Randy Parker, Utah Farm Bureau Federation.
 Dave Ludlow, fisherman.
 Tom Bingham, Utah Manufacturers Association.
 Dan Dygert, Carrus Land Systems, LLC.
 Eve Furse, landowner.
 Brent Bowman, citizen.
 David Eliason, Utah Cattlemen's Association.
 Robert Diblee, Trout Unlimited.
 Lane Parker, citizen.
 Floyd Hatch, citizen.
 Randy Jones, landowner.
 Evan Ault, Bear Canyon Ranch.

MOTION: Rep. Biskupski moved to pass H.B. 80 with a favorable recommendation. The motion passed unanimously.

MOTION: Representative Allen moved to adjourn the meeting. The motion passed unanimously.

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Rep. Bird adjourned the meeting at 5:15 p.m.

Rep. Lorie Fowlke, Chair