

**MINUTES OF THE HOUSE BUSINESS AND LABOR
STANDING COMMITTEE**

Room 450, State Capitol, Utah State Capitol Complex

March 2, 2011

Members Present: Rep. Jim Dunnigan, Chair
Rep. Dixon Pitcher, Vice Chair
Rep. Jim Bird
Rep. Jackie Biskupski
Rep. Derek Brown
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Francis Gibson
Rep. Don Ipson
Rep. Todd Kiser
Rep. Brad Last
Rep. Michael Morley
Rep. Curt Webb
Rep. Larry Wiley

Staff Present: Bryant Howe, Assistant Director
Rosemary Young, Committee Secretary

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

Rep. Dunnigan called the meeting to order at 4:27 p.m.

MOTION: Rep. Webb moved to approve the minutes of the March 1, 2011 meeting. The motion passed unanimously with Rep. Bird, Rep. Brown, Rep. Duckworth, Rep. Gibson, Rep. Morley, and Rep. Pitcher absent for the vote.

H.B. 289 Psychologist Licensing Amendments (*Rep. M. Newbold*)

MOTION: Rep. Froerer moved to amend H.B. 289 as follows:

1. *Page 2, Line 28:*

28 AMENDS:

= **58-1-301.5, as last amended by Laws of Utah 2010, Chapter 372**

2. *Page 2, Line 40:*

40 *Be it enacted by the Legislature of the state of Utah:*

= **Section 1. Section 58-1-301.5 is amended to read:**

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to criminal background information

maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of licensure applicants as required in:

- (a) Section 58-17b-307 of Title 58, Chapter 17b, Pharmacy Practice Act;
- (b) Section 58-31b-302 of Title 58, Chapter 31b, Nurse Practice Act;
- (c) Section 58-47b-302 of Title 58, Chapter 47b, Massage Therapy Practice Act;
- (d) Section 58-55-302 of Title 58, Chapter 55, Utah Construction Trades

Licensing Act, as it applies to alarm companies and alarm company agents;

- (e) Section 58-63-302 of Title 58, Chapter 63, Security Personnel Licensing Act;

~~{-and}~~

(f) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners Licensing Act ~~{-}~~ **; and**

(g) Section 58-61-702, of Title 58, Chapter 61, Part 7, Prescriptive Authority for Licensed Psychologists.

- (2) The division access under Subsection (1) shall be:

- (a) in accordance with Section 53-10-108; and

- (b) to all convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, all dismissed charges, and charges without a known disposition.

Renumber Remaining Sections accordingly

3. *Page 4, Lines 103 through 104:*

103 (d) completes a criminal background check **under the provisions of Section**
58-1-301.5 and is free from criminal convictions ~~{-as~~
104 **required by Subsections (3) and (4)}** ;

4. *Page 5, Lines 127 through 141:*

127 ~~{(3) To determine if an applicant meets the qualifications of Subsection (1)(c)~~
~~or (d), the~~
128 **division shall provide an appropriate number of copies of fingerprint cards to the**
Department
129 **of Public Safety with the division's request to:**
130 ~~—(a) conduct a search of records of the Department of Public Safety for criminal~~
~~history~~
131 **information relating to each applicant for certification under this part; and**

- 132 ~~—(b) forward to the Federal Bureau of Investigation a fingerprint card of each~~
~~applicant~~
133 ~~requiring a check of records of the FBI for criminal history information under this~~
~~section.~~
134 ~~—(4) The Department of Public Safety shall send to the division:~~
135 ~~—(a) a written record of criminal history, or certification of no criminal history~~
~~record, as~~
136 ~~contained in the records of the Department of Public Safety in a timely manner after~~
~~receipt of~~
137 ~~a fingerprint card from the division and a request for review of Department of Public~~
~~Safety~~
138 ~~records; and~~
139 ~~—(b) the results of the FBI review concerning an applicant in a timely manner~~
~~after~~
140 ~~receipt of information from the FBI.~~
141 ~~—(5)}~~ (3) (a) The division shall charge each applicant a fee, in accordance with
Section

5. *Page 5, Line 146:*

- 146 ~~{(6)}~~ (4) Information obtained by the division from the reviews of criminal
history records of

The motion passed unanimously with Rep. Gibson, Rep. Ipson, and Rep. Morley absent for the vote.

Rep. Newbold distributed a handout and explained the bill to the committee assisted by Morgan Sammons, Utah Psychological Association, Elaine LeVine, PhD, New Mexico licensed psychologist, and Dr. Kirk Dansie, Utah licensed psychologist.

The following individuals spoke against the bill:

Howard Weeks, M.D.	Psychiatrist
Sherri Wittwer	National Association of Mental Illness Utah
Louis Moench, M.D.	Psychiatrist
Jennifer Brinton, M.D.	Pediatrician, UAAP
Ellois Bailey, R.N.	American Psychiatric Nurses Association
Grace Forsythe, R.N.	Psych APRN Council
Michelle McOmber	Utah Medical Association (handout)

Lindsay Malechek, M.D. Utah Academy of Family Physicians

MOTION: Rep. Last moved to continue to the next item on the agenda.

SUBSTITUTE MOTION: Rep. Biskupski moved to transmit H.B. 289 with a favorable recommendation. The motion failed with Rep. Biskupski and Rep. Wiley voting in favor and Rep. Brown absent for the vote.

The original motion passed unanimously with Rep. Brown absent for the vote.

**H.B. 482 Long-term Care Facility - Medicaid Certification for Bed Capacity
Amendments (Rep. E. Hutchings)**

MOTION: Rep. Wiley moved to replace H.B. 482 with 1st Substitute H.B. 482. The motion passed unanimously with Rep. Brown and Rep. Last absent for the vote.

Rep. Hutchings explained the bill to the committee.

MOTION: Rep. Duckworth moved to transmit H.B. 482 with a favorable recommendation. The motion passed with Rep. Kiser voting in opposition and Rep. Brown and Rep. Last absent for the vote.

**H.B. 158 Coordination Between State and Local Government on Federal Regulations
(Rep. C. Herrod)**

Rep. Herrod explained the bill to the committee.

MOTION: Rep. Bird moved to amend H.B. 158 as follows:

1. Page 2, Lines 33 through 34:

33 (2) "Federal agency" means the ;

34 (a) United States Environmental Protection Agency;

2. Page 2, Line 38:

38 [(2)] (3) "Office" means the Public Lands ~~{-and Federal}~~ Policy Coordinating
Office

3. Page 2, Line 48:

48 (1) There is created within state government the Public Lands ~~{-and Federal}~~
Policy

4. Page 4, Line 103:

103 [(f)] (h) maintain information concerning grants made under Subsection
(1)[(h)] { (i) } i , if

The motion passed unanimously with Rep. Brown, Rep. Duckworth, Rep. Gibson, and Rep. Last absent for the vote.

MOTION: Rep. Froerer moved to transmit 1st Substitute H.B. 158 with a favorable recommendation. The motion passed unanimously with Rep. Brown, Rep. Duckworth, Rep. Gibson, Rep. Last, and Rep. Pitcher absent for the vote.

MOTION: Rep. Bird moved to place 1st Sub. H.B. 158 on the Consent Calendar. The motion failed with Rep. Wiley voting in opposition and Rep. Brown, Rep. Duckworth, Rep. Gibson, Rep. Last, and Rep. Pitcher absent for the vote.

H.B. 496 Technology and Life Science Economic Development Act (Rep. D. Clark)

MOTION: Rep. Biskupski moved to replace H.B. 496 with 1st Substitute H.B. 496. The motion passed unanimously with Rep. Brown, Rep. Gibson, Rep. Last, and Rep. Pitcher absent for the vote.

Rep. Clark distributed a handout and explained the bill to the committee. Kelvyn Cullimore, Dynatronics, Corp., Jason Dunn, IM Flash, and Brice Arave, IM Flash, spoke in favor of the bill.

MOTION: Rep. Kiser moved to transmit 1st Substitute H.B. 496 with a favorable recommendation. The motion passed with Rep. Morley voting in opposition and Rep. Brown, Rep. Gibson, Rep. Last, and Rep. Pitcher absent for the vote.

H.B. 260 Mechanics' Liens Revisions (Rep. D. Clark)

MOTION: Rep. Webb moved to replace H.B. 260 with 1st Substitute H.B. 260. The motion passed unanimously with Rep. Brown, Rep. Gibson, Rep. Last, and Rep. Pitcher absent for the vote.

MOTION: Rep. Ipson moved to amend 1st Substitute H.B. 260 as follows:

1. Page 2, Line 45:

45 { ~~38-9-2, as last amended by Laws of Utah 2008, Chapters 3 and 223~~ }

2. Page 3, Lines 75 through 79:

75 agent as prescribed by Section {+} 38-1-32 {+} ~~{38-1-32.5}~~ , except that this
section does not apply {+}

76 ~~—(a)}~~ to a person performing labor for wages {+;or} .

77 ~~{(b) if a notice of commencement is not filed as prescribed in Section [38-1-31]~~

78 ~~38-1-31.5 for the project or improvement for which labor, service, equipment, or
material is~~

79 ~~furnished.}~~

3. Page 5, Line 119:

119 (b) ~~{A}~~ Notwithstanding the time a lien relates back to and takes effect as
of under Subsection (2), a recorded mortgage or trust deed on the project property to
secure a construction

4. Page 6, Lines 169 through 173:

169 (c) provide a central repository for [notices of commencement,] {+}

170 ~~—(i) preliminary notices[,] and notices of completion filed in connection with all
[privately owned construction] private projects [as well as] in the state; and~~

172 ~~—(ii) notices of commencement, preliminary notices, and notices of completion for
all~~

173 ~~[state and local] government [owned construction] projects [throughout Utah] in the
state.}~~ all notices filed with the database under Section 38-1-30.5, 38-1-31.5,
38-1-32, 38-1-32.5, 38-1-33, or 38-1-40 ;

5. Page 6, Line 176 through Page 7, Line 181:

176 (i) the filing and reviewing of {+}

177 ~~—[(i)] (A) notices of commencement on a government project;~~

178 ~~—[(ii)] (B) preliminary notices;~~

179 ~~—[(iii)] (C) [a notice] notices of intent to file notice of final completion;~~

180 ~~—[(iv)] (D) [a notice] notices for remaining amounts due to complete the contract;
and~~

181 ~~—[(v)] (E) notices of completion }~~ notices described in Subsection (2)(c) ; and

6. Page 8, Lines 223 through 231:

- 223 (i) ~~{ a notice of commencement on a government project;~~
224 ~~—(ii) a preliminary notice;~~
225 ~~—(iii) a notice of intent to file notice of final completion;~~
226 ~~—(iv) a notice for remaining amounts due to complete the contract;~~
227 ~~—(v) a notice of completion }~~ all notices described in Subsection (2)(c) ;
228 {~~(vi)~~} (ii) a request for notice;
229 {~~(vii)~~} (iii) providing a required notice by an alternate {~~method of~~
delivery} filing ;
230 {~~(viii)~~} (iv) a duplicate receipt of a filing; and
231 {~~(ix)~~} (v) account setup for a person who wishes to be billed periodically
for filings with the

7. Page 18, Lines 531 through 535:

- 531 ~~{(d) A preliminary notice filed for labor, service, equipment, or material~~
furnished to
532 real property for a private project under an original contract is not valid for labor,
service,
533 equipment, or material furnished to the same real property for another private
project under a
534 separate original contract.}
535 {+} (d) {+} {~~(e)~~} (i) (A) [If a] A person who [is required to file a
preliminary notice under this

8. Page 18, Line 545:

- 545 {~~(f)~~} (e) A preliminary notice that is timely filed with the database with
respect to a private

9. Page 18, Line 548:

- 548 {~~(g)~~} (f) If a preliminary notice filed with the database includes the tax
parcel identification

10. Page 19, Line 556:

- 556 {~~(h)~~} (g) A preliminary notice for a private project shall include:

11. Page 25, Lines 743 through 756:

743 {~~Section 13. Section 38-9-2 is amended to read:~~
744 ~~38-9-2. Scope:~~
745 ~~(1) (a) The provisions of Sections 38-9-1, 38-9-3, 38-9-4, and 38-9-6 apply to any~~
746 ~~recording or filing or any rejected recording or filing of a lien pursuant to this~~
747 ~~chapter on or~~
748 ~~after May 5, 1997.~~
749 ~~(b) The provisions of Sections 38-9-1 and 38-9-7 apply to all liens of record~~
750 ~~regardless~~
751 ~~of the date the lien was recorded or filed.~~
752 ~~(c) Notwithstanding Subsections (1)(a) and (b), the provisions of this chapter~~
753 ~~applicable to the filing of a notice of interest do not apply to a notice of interest filed~~
754 ~~before~~
755 ~~May 5, 2008.~~
756 ~~(2) The provisions of this chapter shall not prevent a person from filing a lis~~
757 ~~pendens in~~
758 ~~accordance with Section 78B-6-1303 or seeking any other relief permitted by law.~~
759 ~~[(3) This chapter does not apply to a person entitled to a lien under Section~~
760 ~~38-1-3 who~~
761 ~~files a lien pursuant to Title 38, Chapter 1, Mechanics' Liens.] }~~

The motion passed unanimously with Rep. Brown, Rep. Gibson, Rep. Last, and Rep. Pitcher absent for the vote.

Rep. Clark explained the bill to the committee. Rich Thorn, Associated General Contractors, spoke to the bill. The following individuals spoke in favor of the bill:

Tom Hatch	Utah Land Title Association
Matt Sager	First American Title
Taz Biesinger	Utah Homebuilders Association
Howard Headlee	Utah Bankers Association

The following individuals spoke against the bill:

Rob Campbell	Wheeler Construction
Darrel Bostwick	ABC Chapter Counsel
Scott Barrett	Staker and Sorensen Companies

MOTION: Rep. Bird moved to return 1st Substitute H.B. 260 to rules for interim study.

SUBSTITUTE MOTION: Rep. Morley moved to transmit 1st Substitute H.B. 260 with a favorable recommendation. The motion passed with Rep. Bird, Rep. Biskupski, Rep. Brown, Rep. Duckworth, Rep. Kiser, and Rep. Dunnigan voting in opposition.

H.B. 430 Barber, Cosmetologist/barber, Esthetician, Electrologist, and Nail Technician Licensing Act Amendments (Rep. H. Richardson)

MOTION: Rep. Biskupski moved to amend H.B. 430 as follows:

1. Page 9, Lines 256 through 259:

- 256 (a) the person has completed an eyelash extension application training and
 certification
257 program; and
258 (b) the practice of eyelash extension application , defined by Section 58-11a-
 102, is the only activity in which the person
259 is engaged without a license.

The motion passed unanimously with Rep. Duckworth, Rep. Gibson, and Rep. Morley absent for the vote.

Rep. Richardson explained the bill to the committee assisted by Brian Greene, attorney for the eyelash industry.

The following individuals spoke in favor of the bill:

Amelia Meneses	Eyelash Industry
Tiffany Durfee	Eyelash Industry
Laura Mitchell	Eyelash Industry

The following individuals spoke against the bill:

Brenda Scharman	Utah Beauty School Association
Wendy Merrill	Utah Beauty Schools
Natalie Parkin	Skinworks

MOTION: Rep. Pitcher moved to transmit H.B. 430 with a favorable recommendation. The motion failed with Rep. Biskupski, Rep. Brown, Rep. Gibson, Rep. Last, Rep. Morley, and Rep. Pitcher voting in favor and Rep. Duckworth absent for the vote.

H.B. 304 Campaign Finance Revisions (Rep. G. Hughes)

Rep. Hughes explained the bill to the committee.

MOTION: Rep. Ipson moved to transmit H.B. 304 with a favorable recommendation. The motion passed unanimously with Rep. Duckworth and Rep. Kiser absent for the vote.

MOTION: Rep. Gibson moved to place H.B. 204 on the Consent Calendar. The motion passed unanimously with Rep. Duckworth and Rep. Kiser absent for the vote.

H.B. 370 Bail Bond Amendments (Rep. G. Hughes)

MOTION: Rep. Ipson moved to amend H.B. 370 as follows:

1. *Page 1, Line 17:*

17 ▶ provides that bail will be exonerated in specified cases , including
 where the court has not scheduled any

2. *Page 2, Lines 51 through 52:*

51 (4) ~~{A person}~~ An individual who is applying for licensure under this
 chapter for the first time shall
52 have completed a training program of not less than four hours that is approved by the
 ~~{board}~~ commissioner and

3. *Page 3, Line 71:*

71 to and including the surrender of the defendant ~~{in execution of any sentence~~
 ~~imposed}~~ for sentencing,

4. *Page 3, Lines 73 through 75:*

73 appear up to ~~{and including execution of sentence}~~ the sentencing when
 required is a breach of the conditions of
74 the undertaking or bail and subjects it to forfeiture .
 ~~{irrespective}~~ regardless of whether or not notice of
75 appearance was given to the sureties upon sentencing, and bond shall be exonerated
 without motion .

5. *Page 3, Lines 84 through 85:*

- 84 undertaking { ~~during all proceedings and for all court appearances required of the~~
~~defendant up~~
85 ~~to and including the next execution of sentence imposed under Subsection~~
~~[77-20-7](1)~~ until the next court hearing. Upon appearance of the defendant, the
bond shall be exonerated without motion .

6. Page 4, Lines 110 through 112:

- 110 {+} (d) ensure that the name, address, and telephone number of the surety
or its agent as
111 listed on the bond is stated on the bench warrant. {+}
112 {+} (e) mail notice of the failure to appear to the bail producer's agent if
the surety is

The motion passed unanimously with Rep. Duckworth, Rep. Kiser, and Rep. Pitcher absent for the vote.

Rep. Hughes explained the bill to the committee. Suzette Green-Wright, Utah Insurance Department spoke in favor of the bill.

MOTION: Rep. Ipson moved to transmit H.B. 370 with a favorable recommendation. The motion passed with Rep. Brown voting in opposition and Rep. Biskupski, Rep. Duckworth, and Rep. Last absent for the vote.

H.B. 113 Deferred Deposit Lending Amendments (Rep. B. Daw)

Rep. Daw explained the bill to the committee assisted by David Young, a businessman from Utah County. Wendy Gibson, Check City, spoke against the bill. Linda Hilton, Coalition of Religious Communities, spoke in favor of the bill.

MOTION: Rep. Pitcher moved to transmit H.B. 113 with a favorable recommendation. The motion failed with Rep. Bird, Rep. Duckworth, Rep. Last, and Rep. Pitcher voting in favor and Rep. Biskupski absent for the vote.

MOTION: Rep. Duckworth moved to adjourn. The motion passed unanimously with Rep. Biskupski absent for the vote.

Rep. Dunnigan adjourned the meeting at 8:55 p.m.

Rep. James Dunnigan, Chair