

**MINUTES OF THE SENATE BUSINESS & LABOR
STANDING COMMITTEE
THURSDAY, FEBRUARY 21, 2008, 8:15 A.M.
ROOM W015, WEST OFFICE BUILDING
STATE CAPITOL COMPLEX**

Members Present: Sen. Kevin VanTassell, Chair
Sen. Karen Mayne
Sen. Wayne Niederhauser
Sen. Carlene Walker

Members Excused: Sen. Gene Davis
Sen. Dan Eastman
Sen. Bill Hickman

Staff Present: Allison Nicholson, Policy Analyst
Karen Allred, Committee Secretary

Public Speakers Present: Scott Marsell, Utah Building Association
Robert Moyle, Structural Engineers of Utah
David Jenkins, structural engineer
Kelly Atkinson, Executive Director, Utah Health Insurance
Elizabeth Garbe, Coverage Initiatives Director, Utah Health Policy
Project
Kent Mitchie, Commissioner, Insurance Department
Leonard Gilroy, Division of Government Reform, Reason Foundation
Mark Steinagel, Director, Real Estate Division, Department of
Commerce

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

Chair VanTassell called the meeting to order at 8:23 a.m.

1. S.B. 200 Professional Engineers Licensing Amendments (F. Fife)

Sen. Fife introduced the bill and the following amendments were distributed:

1. Page 4, Line 115 through Page 5, Line 142:

- 115 (E) jails and detention facilities **with a gross area greater than 3,000 square feet** ; or
116 (F) an occupancy with an occupant load greater than 5,000;
117 (ii) buildings and other structures designated as essential facilities, including:
118 (A) hospitals and other health care facilities having surgery or emergency treatment
119 facilities **with a gross area greater than 3,000 square feet** ;

120 (B) fire, rescue, and police stations and emergency vehicle garages with a mean height
greater than 24 feet or a gross area greater than 5,000 square feet ;

121 (C) designated earthquake, hurricane, or other emergency shelters with a gross area
greater than 3,000 square feet ;

122 (D) designated emergency preparedness, communication, and operation centers and
123 other buildings required for emergency response with a mean height more than 24 feet or a
gross area greater than 5,000 square feet ;

124 (E) power-generating stations and other public utility facilities required as emergency
125 backup facilities with a gross area greater than 3,000 square feet ;

126 (F) structures with a mean height more than 24 feet or a gross area greater than 5,000
square feet containing highly toxic materials as defined by the division by rule,
127 where the quantity of the material exceeds the maximum allowable quantities set by the
128 division by rule; and

129 (G) aviation control towers, air traffic control centers, and emergency aircraft hangars at
commercial service and cargo air services airports as defined by the Federal Aviation
Administration with a mean height greater than 35 feet or a gross area greater than 20,000
square feet ;

130 { ~~or~~

131 ~~(H) buildings having critical national defense functions;~~ } and

132 (iii) buildings and other structures requiring special consideration, including:

133 (A) structures or buildings that are:

134 (I) normally occupied by human beings; and

135 (II) five stories or more in height; or

136 (III) that have an average roof height more than 60 feet above the average ground level

137 measured at the perimeter of the structure; or

138 (B) all buildings over 60,000 aggregate gross square feet in area; and

139 (b) includes the definition of professional engineering or the practice of professional
engineering as ~~{ defined in~~

140 this section } provided in Subsection (9) .

141 (15) "Structure" means that which is built or constructed, an edifice or building of any
142 kind, or [any] a piece of work artificially built up or composed of parts joined together in

2. Page 6, Lines 179 through 180:

179 (e) have successfully completed three years of licensed professional engineering

180 experience established by rule by the division in collaboration with the board , except that
prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form
prescribed by the division stating that the applicant is currently engaged in the practice of
structural engineering ;

3. *Page 6, Line 182 through Page 7, Line 187:*

182 collaboration with the board~~{and}~~, except that prior to January 1, 2009, an applicant for
183 licensure may submit a signed affidavit in a form prescribed by the division stating {
184 ~~(i)~~} that the applicant is currently engaged in the practice of structural engineering;
{and
185 ~~(ii) the applicant is competent to engage in the practice of structural engineering as~~
186 defined in Section 58-22-102;} and
187 (g) meet with the board or representative of the division upon request for the purpose

4. *Page 10, Line 305 through Page 11, Line 307:*

305 (4) engaging in the practice of engineering, structural engineering, or surveying as set
306 forth in Subsections 58-22-102(9), (11), and (14), if the person has not been licensed under
this chapter, except as provided in Section 58-1-307 or
307 Subsections 58-3a-304(1)(b) through (f); or

MOTION: Sen. VanTassell moved to adopt the amendments.

The motion passed unanimously with Sen. Walker absent for the vote.

Scott Marsell, Utah Building Association, and Robert Moyle, Structural Engineers of Utah, spoke in support of the bill.

David Jenkins, structural engineer, spoke in opposition to the bill.

MOTION: Sen. Walker moved to pass the bill out favorably as amended.

The motion passed unanimously with Sen. Niederhauser absent for the vote.

2. **H.B. 342 Insurance Code Amendments** (*J. Dunnigan*)

Rep. Dunnigan introduced the bill and the following amendments were distributed:

1. Page 2, Lines 38 through 40:

38 Insurance Act; and
39 {→ addresses when individual carriers must accept individuals; and }
40 ▶ makes additional technical amendments.

2. Page 3, Line 70:

70 {~~31A-30-108, as last amended by Laws of Utah 2004, Chapters 2 and 329~~}

3. Page 12, Lines 341 through 354

House Floor Amendments

2-12-2008:

341 (50) (a) "Eligible employee" means:

342 (i) an employee who:

343 (A) works on a full-time basis; and

344 (B) has a normal work week of 30 or more hours; {+} or {+}

345 {+} (ii) a person described in Subsection (50) (b). {+}

346 {+} (b) "Eligible employee" includes, if the individual is included under a health
benefit

347 plan of a small employer: {+}

348 {+} (i) {+} {~~(ii)~~} a sole proprietor;

349 {+} (ii) {+} {~~(iii)~~} a partner in a partnership; or

350 {+} (iii) {+} {~~(iv)~~} an independent contractor.

351 {+} (c) {+} {~~(b)~~} "Eligible employee" does not include $\hat{H} \rightarrow [f]$, unless
eligible under Subsection

352 (50)(b): (i) $[f] \leftarrow \hat{H}$ an individual who works on a temporary or substitute basis for a small
352a employer $\hat{H} \rightarrow [f]$; $[f]$ $[e]$

353 $[f]$ (ii) an employer's spouse; or $[f]$

354 $[f]$ (iii) a dependent of an employer. $[f] \leftarrow \hat{H}$

4. Page 64, Line 1980 through Page 65, Line 1983:

1980 (4) The Basic Health Care Plan adopted by the commissioner under this section shall
1981 provide for:

1982 (a) a lifetime maximum benefit per person not to exceed \$1,000,000;

1983 (b) an annual maximum benefit per person not {to exceed \$300,000} less than
\$250,000 ;

5. *Page 103, Line 3166 through Page 106, Line 3269:*

3166 ~~{ Section 26. Section 31A-30-108 is amended to read:~~
3167 ~~— 31A-30-108. Eligibility for small employer and individual market.~~
3168 ~~— (1) (a) Small employer carriers shall accept residents for small group coverage as set~~
3169 ~~forth in the Health Insurance Portability and Accountability Act, P.L. 104-191, 110 Stat.~~
3170 ~~1962,~~
3171 ~~Sec. 2701(f) and 2711(a).~~
3172 ~~— (b) Individual carriers shall accept residents for individual coverage pursuant:~~
3173 ~~— (i) to P.L. 104-191, 110 Stat. 1979, Sec. 2741(a)-(b); and~~
3174 ~~— (ii) Subsection (3).~~
3175 ~~— (2) (a) Small employer carriers shall offer to accept all eligible employees and their~~
3176 ~~dependents at the same level of benefits under any health benefit plan provided to a small~~
3177 ~~employer.~~
3178 ~~— (b) Small employer carriers may:~~
3179 ~~— (i) request a small employer to submit a copy of the small employer's quarterly income~~
3180 ~~tax withholdings to determine whether the employees for whom coverage is provided or~~
3181 ~~requested are bona fide employees of the small employer; and~~
3182 ~~— (ii) deny or terminate coverage if the small employer refuses to provide documentation~~
3183 ~~requested under Subsection (2)(b)(i).~~
3184 ~~— (3) Except as provided in Subsections (5) and (6) and Section 31A-30-110, individual~~
3185 ~~carriers shall accept for coverage individuals to whom all of the following conditions apply:~~
3186 ~~— (a) the individual is not covered or eligible for coverage:~~
3187 ~~— (i) (A) as an employee of an employer;~~
3188 ~~— (B) as a member of an association; or~~
3189 ~~— (C) as a member of any other group; and~~
3190 ~~— (ii) under:~~
3191 ~~— (A) a health benefit plan; or~~
3192 ~~— (B) a self-insured arrangement that provides coverage similar to that provided by a~~
3193 ~~health benefit plan as defined in Section 31A-1-301;~~
3194 ~~— (b) the individual is not covered and is not eligible for coverage under any public~~
3195 ~~health benefits arrangement including:~~
3196 ~~— (i) the Medicare program established under Title XVIII of the Social Security Act;~~
3197 ~~— [(ii) the Medicaid program established under Title XIX of the Social Security Act;]~~
3198 ~~— [(iii)] (ii) any act of Congress or law of this or any other state that provides benefits~~

3198 ~~comparable to the benefits provided under this chapter; or~~
3199 ~~— [(iv)] (iii) coverage under the Comprehensive Health Insurance Pool Act created in~~
3200 ~~Chapter 29, Comprehensive Health Insurance Pool Act;~~
3201 ~~— (c) unless the maximum benefit has been reached the individual is not covered or~~
3202 ~~eligible for coverage under any:~~
3203 ~~— (i) Medicare supplement policy;~~
3204 ~~— (ii) conversion option;~~
3205 ~~— (iii) continuation or extension under COBRA; or~~
3206 ~~— (iv) state extension;~~
3207 ~~— (d) the individual has not terminated or declined coverage described in Subsection~~
3208 ~~(3)(a), (b), or (c) within 93 days of application for coverage, unless the individual is eligible~~
3209 ~~for~~
3210 ~~individual coverage under P.L. 104-191, 110 Stat. 1979, Sec. 2741(b), in which case, the~~
3211 ~~requirement of this Subsection (3)(d) does not apply; and~~
3212 ~~— (e) the individual is certified as ineligible for the Health Insurance Pool if:~~
3213 ~~— (i) the individual applies for coverage with the Comprehensive Health Insurance Pool~~
3214 ~~within 30 days after being rejected or refused coverage by the covered carrier and reapplies~~
3215 ~~for~~
3216 ~~coverage with that covered carrier within 30 days after the date of issuance of a certificate~~
3217 ~~under Subsection 31A-29-111 (5)(c); or~~
3218 ~~— (ii) the individual applies for coverage with any individual carrier within 45 days~~
3219 ~~after:~~
3220 ~~— (A) notice of cancellation of coverage under Subsection 31A-29-115(1); or~~
3221 ~~— (B) the date of issuance of a certificate under Subsection 31A-29-111 (5)(c) if the~~
3222 ~~individual applied first for coverage with the Comprehensive Health Insurance Pool.~~
3223 ~~— (4) (a) If coverage is obtained under Subsection (3)(e)(i) and the required premium is~~
3224 ~~paid, the effective date of coverage shall be the first day of the month following the~~
3225 ~~individual's~~
3226 ~~submission of a completed insurance application to that covered carrier.~~
3227 ~~— (b) If coverage is obtained under Subsection (3)(e)(ii) and the required premium is~~
3228 ~~paid, the effective date of coverage shall be the day following the:~~
3229 ~~— (i) cancellation of coverage under Subsection 31A-29-115(1); or~~
3230 ~~— (ii) submission of a completed insurance application to the Comprehensive Health~~
3231 ~~Insurance Pool.~~
3232 ~~— (5) (a) An individual carrier is not required to accept individuals for coverage under~~

3229 ~~Subsection (3) if the carrier issues no new individual policies in the state after July 1, 1997.~~
3230 ~~—(b) A carrier described in Subsection (5)(a) may not issue new individual policies in~~
3231 ~~the state for five years from July 1, 1997.~~
3232 ~~—(c) Notwithstanding Subsection (5)(b), a carrier may request permission to issue new~~
3233 ~~policies after July 1, 1999, which may only be granted if:~~
3234 ~~—(i) the carrier accepts uninsurables as is required of a carrier entering the market~~
~~under~~
3235 ~~Subsection 31A-30-110; and~~
3236 ~~—(ii) the commissioner finds that the carrier's issuance of new individual policies:~~
3237 ~~—(A) is in the best interests of the state; and~~
3238 ~~—(B) does not provide an unfair advantage to the carrier.~~
3239 ~~—(6) (a) If the Comprehensive Health Insurance Pool as set forth under Title 31A,~~
3240 ~~Chapter 29, is dissolved or discontinued, or if enrollment is capped or suspended, an~~
~~individual~~
3241 ~~carrier may decline to accept individuals applying for individual enrollment, other than~~
3242 ~~individuals applying for coverage as set forth in P.L. 104-191, 110 Stat. 1979, Sec. 2741~~
3243 ~~(a)-(b):~~
3244 ~~—(b) Within two calendar days of taking action under Subsection (6)(a), an individual~~
3245 ~~carrier will provide written notice to the Utah Insurance Department.~~
3246 ~~—(7) (a) If a small employer carrier offers health benefit plans to small employers~~
3247 ~~through a network plan, the small employer carrier may:~~
3248 ~~—(i) limit the employers that may apply for the coverage to those employers with eligible~~
3249 ~~employees who live, reside, or work in the service area for the network plan; and~~
3250 ~~—(ii) within the service area of the network plan, deny coverage to an employer if the~~
3251 ~~small employer carrier has demonstrated to the commissioner that the small employer~~
~~carrier:~~
3252 ~~—(A) will not have the capacity to deliver services adequately to enrollees of any~~
3253 ~~additional groups because of the small employer carrier's obligations to existing group~~
~~contract~~
3254 ~~holders and enrollees; and~~
3255 ~~—(B) applies this section uniformly to all employers without regard to:~~
3256 ~~—(I) the claims experience of an employer, an employer's employee, or a dependent of an~~
3257 ~~employee; or~~
3258 ~~—(II) any health status-related factor relating to an employee or dependent of an~~
3259 ~~employee.~~

3260 ~~—(b) (i) A small employer carrier that denies a health benefit product to an employer in~~
3261 ~~any service area in accordance with this section may not offer coverage in the small~~
~~employer~~
3262 ~~market within the service area to any employer for a period of 180 days after the date the~~
3263 ~~coverage is denied.~~
3264 ~~—(ii) This Subsection (7)(b) does not:~~
3265 ~~—(A) limit the small employer carrier's ability to renew coverage that is in force; or~~
3266 ~~—(B) relieve the small employer carrier of the responsibility to renew coverage that is in~~
3267 ~~force.~~
3268 ~~—(c) Coverage offered within a service area after the 180-day period specified in~~
3269 ~~Subsection (7)(b) is subject to the requirements of this section.~~

-}

Renumber remaining sections accordingly

MOTION: Sen. Mayne moved to adopt the amendments.

The motion passed unanimously with Sen. Niederhauser absent for the vote..

Kelly Atkinson, Executive Director, Utah Health Insurance; Elizabeth Garbe, Coverage Initiatives Director, Utah Health Policy Project; and Kent Mitchie, Commissioner, Insurance Department; spoke in support of the bill.

MOTION: Sen. Mayne moved to pass the bill out favorably as amended.

The motion passed unanimously with Sen. Niederhauser absent for the vote.

MOTION: Sen. Walker moved to place the bill on the Consent Calendar.

The motion passed unanimously with Sen. Niederhauser absent for the vote.

3. H.B. 184 Construction Amendments (M. Morley)

Rep. Morley introduced the bill and Sen. Jenkins proposed the following amendments:

1. *Page 1, Lines 17 through 18*
House Committee Amendments
2-8-2008:

17 Other Special Clauses:

18 H→ [~~None~~] This bill takes effect on {~~January 1, 2009~~} July 1, 2008 . ←H

2. *Page 2, Lines 48a through 48b*
 House Committee Amendments
 2-8-2008:

48a H→ Section 2. Effective Date

48b This bill takes effect on {~~January 1, 2009~~} July 1, 2008 . ←H

MOTION: Sen. Walker moved to adopt the amendments.

The motion passed unanimously.

MOTION: Sen. Walker moved to pass the bill out favorably as amended.

The motion passed unanimously.

MOTION: Sen. Walker moved to place the bill on the Consent Calendar.

The motion passed unanimously.

4. 2nd Sub. H.B. 75 Inventory and Review of Commercial Activities (C. Frank)

Rep. Frank introduced the bill.

Leonard Gilroy, Division of Government Reform, Reason Foundation, spoke in support of the bill.

MOTION: Sen. Niederhauser moved to pass the bill out favorably.

The motion passed unanimously.

5. 2nd Sub. H.B. 346 Division of Real Estate Related Amendments (G. Froerer)

Sen. Niederhauser introduced the bill.

Mark Steinagel, Director, Real Estate Division, Department of Commerce, further explained and spoke in support of the bill.

MOTION: Sen. Niederhauser moved to pass the bill out favorably.

The motion passed unanimously with Sen. Mayne absent for the vote.

MOTION: Sen. Walker moved to adjourn.

The motion passed unanimously with Sen. Mayne absent for the vote.

Chair VanTassell adjourned the meeting at 9:14 a.m.

Sen. Kevin VanTassell, Committee Chair