

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

Room 450, State Capitol, Utah State Capitol Complex
February 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 2:03 p.m.

MOTION: Rep. Pitcher moved to approve the minutes of the February 1, 2011 meeting. The motion passed unanimously with Rep. Duckworth, Rep. Gibson, Rep. Ipson, and Rep. Kiser absent for the vote.

H.B. 237 Enforcement of Liens (Rep. Julie Fisher)

Rep. Fisher explained the bill to the committee.

MOTION: Rep. Bird moved to transmit H.B. 237 with a favorable recommendation. The motion passed unanimously with Rep. Duckworth, Rep. Gibson, Rep. Ipson, Rep. Morley, and Rep. Wiley absent for the vote.

MOTION: Rep. Biskupski moved to place H.B. 237 on the Consent Calendar. The motion passed unanimously with Rep. Duckworth, Rep. Gibson, Rep. Ipson, Rep. Kiser, Rep. Morley, and Rep. Wiley absent for the vote.

1st Sub. S.B. 11 Worker Classification Coordinated Enforcement (Sen. K. Mayne) (Rep. T. Kiser)

Sen. Mayne explained the bill to the committee.

MOTION: Rep. Wiley moved to transmit 1st Substitute S.B. 11 with a favorable recommendation. The motion passed unanimously with Rep. Duckworth and Rep. Froerer absent for the vote.

1st Sub. S.B. 35 Construction Licensees Related Amendments (Sen. K. Mayne) (Rep. T. Kiser)

Sen. Mayne explained the bill to the committee assisted by David Spatafore, Coalition for a Stronger Utah Economy, who distributed a handout.

MOTION: Rep. Morley moved to amend 1st Substitute S.B. 35 as follows:

1. Page 3, Line 64:

64 be the employer of each ~~{member of}~~ individual who, directly or indirectly,
holds an ownership interest in the unincorporated entity.

2. Page 3, Lines 67 through 77:

67 under Subsection (2)(a) for ~~{a member}~~ an individual by establishing by clear
and convincing evidence that the

68 ~~{member}~~ individual :

69 (i) is an active manager of the unincorporated entity;

70 (ii) directly or indirectly holds at least a ~~{20%}~~ 8% ownership interest in
the unincorporated

71 entity; or

72 (iii) is not subject to supervision or control in the performance of work by:

73 (A) the unincorporated entity; or

74 (B) a person with whom the unincorporated entity contracts.

75 (c) As part of the rules made under Subsection (2)(b), the commission may define:

76 (i) "active manager";

77 (ii) "directly or indirectly holds at least a ~~{20%}~~ 8% ownership interest";

and

3. Page 12, Line 352:

352 be the employer of each ~~{member of}~~ individual who, directly or indirectly,
holds an ownership interest in the unincorporated entity.

4. Page 12, Lines 355 through 365:

355 under Subsection (2)(a) for ~~{a member}~~ an individual by establishing by clear
and convincing evidence that the

356 ~~{member}~~ individual :

357 (i) is an active manager of the unincorporated entity;

358 (ii) directly or indirectly holds at least a ~~{20%}~~ 8% ownership interest in
the unincorporated

359 entity; or

360 (iii) is not subject to supervision or control in the performance of work by:

361 (A) the unincorporated entity; or

362 (B) a person with whom the unincorporated entity contracts.

363 (c) As part of the rules made under Subsection (2)(b), the commission may define:
364 (i) "active manager";
365 (ii) "directly or indirectly holds at least a ~~{20%}~~ 8% ownership interest";
and

5. *Page 14, Line 419:*

419 be the employer of each ~~{member of}~~ individual who, directly or indirectly,
holds an ownership interest in the unincorporated entity.

6. *Page 14, Line 422 through Page 15, Line 432:*

422 under Subsection (2)(a) for ~~{a member}~~ an individual by establishing by clear
and convincing evidence that the
423 ~~{member}~~ individual :
424 (i) is an active manager of the unincorporated entity;
425 (ii) directly or indirectly holds at least a ~~{20%}~~ 8% ownership interest in
the unincorporated
426 entity; or
427 (iii) is not subject to supervision or control in the performance of work by:
428 (A) the unincorporated entity; or
429 (B) a person with whom the unincorporated entity contracts.
430 (c) As part of the rules made under Subsection (2)(b), the commission may define:
431 (i) "active manager";
432 (ii) "directly or indirectly holds at least a ~~{20%}~~ 8% ownership interest";
and

7. *Page 32, Lines 968 through 972:*

968 (10) (a) A licensee that is an unincorporated entity shall file an ownership status
report
969 with the division every 90 days after the day on which the license is issued if the licensee
has as
970 an owner an individual who:
971 (i) owns an interest in the contractor that is an unincorporated entity;
972 (ii) owns, directly or indirectly, less than a ~~{20%}~~ 8% interest in the
unincorporated entity, as

8. *Page 37, Lines 1118 through 1121:*

1118 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
1119 Employment Security Act, for an individual who owns, directly or indirectly, less than a
~~{20}~~ 8 %

- 1120 interest in the unincorporated entity, as defined by rule made by the division in accordance
with
1121 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9. *Page 38, Lines 1165 through 1167:*

- 1165 (8) an unincorporated entity licensed under this chapter **through a pattern of**
negligence having an individual who owns
1166 an interest in the unincorporated entity engage in a construction trade in Utah while not
1167 lawfully present in the United States; or

10. *Page 38, Line 1172 through Page 39, Line 1175:*

- 1172 (b) unemployment compensation in accordance with Title 35A, Chapter 4,
1173 Employment Security Act, for an individual who owns, directly or indirectly, less than a
{~~20~~} **8** %
1174 interest in the unincorporated entity, as defined by rule made by the division in accordance
with
1175 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

11. *Page 42, Lines 1273 through 1277:*

- 1273 (j) In addition to any other licensure sanction or fine imposed under this section, the
1274 division shall revoke the license of a licensee that violates Subsection 58-55-501(24) or
(25)
1275 two or more times within a 12-month period {~~2~~} **, unless, with respect to a**
violation of Subsection 58-55-501 (24), the licensee can demonstrate that the licensee
successfully verified the federal legal working status of the individual who was the
subject of the violation using a status verification system, as defined in Section
13-47-102.
1276 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(24) or
(25)
1277 for each individual is considered a separate violation.

The motion passed unanimously.

The following individuals spoke in favor of the bill:

Darrel Bostwick, Atty.	Bostwick & Price, P.C.
Richard Thorn	Associated General Contractors
Michael Sanchez	Eagle Forum, IMS Masonry
Dennis Chavez	Chavez L.L.C.
Rob Bay	CSG Workforce Partners, L.L.C.
Weston Lunsford	CSG Workforce Partners, L.L.C.

MOTION: Rep. Kiser moved to transmit 1st Substitute S.B. 35 with a favorable recommendation. The motion passed unanimously.

H.B. 78 Developer Fees (Rep. M. Morley)

MOTION: Rep. Morley moved to amend H.B. 78 as follows:

1. *Page 2, Line 53 through Page 3, Line 60:*

53 (3) "Billboard" means a freestanding ground sign located on industrial, commercial,
or
54 residential property if the sign is designed or intended to direct attention to a business,
product,
55 or service that is not sold, offered, or existing on the property where the sign is located.
56 ~~{(4) "Building permit fee" means any fee charged to enforce the uniform~~
~~codes adopted~~
57 ~~pursuant to Title 58, Chapter 56, Utah Uniform Building Standards Act, that is no~~
~~greater than~~
58 ~~a fee indicated in the appendix to the International Building Code.}~~
59 {+} (4) {+} ~~{(5)}~~ "Charter school" includes:
60 (a) an operating charter school;

And renumber the remaining sections accordingly.

2. *Page 20, Lines 594 through 601:*

594 (3) "Billboard" means a freestanding ground sign located on industrial, commercial,
or
595 residential property if the sign is designed or intended to direct attention to a business,
product,
596 or service that is not sold, offered, or existing on the property where the sign is located.
597 ~~{(4) "Building permit fee" means any fee charged to enforce the uniform~~
~~codes adopted~~
598 ~~pursuant to Title 58, Chapter 56, Utah Uniform Building Standards Act, that is no~~
~~greater than~~
599 ~~a fee indicated in the appendix to the International Building Code.}~~
600 {+} (4) {+} ~~{(5)}~~ "Charter school" includes:
601 (a) an operating charter school;

And renumber the remaining sections accordingly.

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

Rep. Morley, assisted by Jodi Hoffman, Utah League of Cities and Towns, explained the bill to the committee.

MOTION: Rep. Wiley moved to transmit H.B. 78 with a favorable recommendation. The motion passed unanimously with Rep. Froerer absent for the vote.

H.B. 243 Occupations and Professions Amendments (Rep. M. Morley)

MOTION: Rep. Morley moved to amend H.B. 243 as follows:

1. Page 1, Lines 20 through 21:

20 { ~~— modifies unprofessional conduct provisions and unlawful conduct~~
~~penalty~~
21 ~~provisions;~~ }

2. Page 2, Line 42:

42 { ~~58-1-501, as last amended by Laws of Utah 2010, Chapter 180~~ }

3. Page 14, Line 411 through Page 17, Line 494: Delete Lines 411 through 494

Renumber remaining sections accordingly.

The motion passed unanimously with Rep. Froerer absent for the vote.

Rep. Morley, assisted by Mark Steinagel, Director, Division of Occupational and Professional Licensing, explained the bill to the committee.

MOTION: Rep. Pitcher moved to transmit H.B. 243 with a favorable recommendation. The motion passed unanimously with Rep. Froerer and Rep. Gibson absent for the vote.

MOTION: Rep. Kiser moved to adjourn. The motion passed unanimously with Rep. Froerer and Rep. Gibson absent for the vote.

Rep. Dunnigan adjourned the meeting at 3:46 p.m.