

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT & CRIMINAL JUSTICE
STANDING COMMITTEE MEETING
FEBRUARY 9 , 2011, 2:00 PM
ROOM 250, STATE CAPITOL**

Members Present: Sen. Mark B. Madsen, Committee Chair
Sen. Lyle W. Hillyard
Sen. Steve H. Urquhart
Sen. Michael G. Waddoups
Sen. Ben McAdams

Members Excused: Sen. Ross I. Romero

Staff Present: Jerry Howe, Policy Analyst
Kathy Helgesen, Committee Secretary

Public Speakers Present: Stewart Ralphs, Legal Aid Society of Salt Lake
Bill Duncan, Director for Family Society, Sutherland Institute
Paul Boyden, Executive Director, Prosecutors' Association
Rob Latham, Utah Association of Criminal Defense Lawyers
Chris Purcell, State Farm Insurance
Greg Curtis, attorney, Allstate Insurance
John T. Nielsen, Utah State Bar Association
Steve Sullivan, attorney

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

Committee Chair Madsen called the meeting to order at 2:20 p.m.

Approval of Minutes

MOTION: Sen. McAdams moved to approve the corrected minutes of January 28 and the minutes of February 7, 2011.

The motion passed unanimously with Sen. Waddoups and Sen. Urquhart absent for the vote.

1. SB0096S01 - Alimony Amendments (L. Hillyard)

MOTION: Sen. Hillyard made a motion to delete 1st Substitute S.B. 96 in title and body and replace with 2nd Substitute S.B. 96.

The motion passed unanimously with Sen. Urquhart and Sen. Waddoups absent for the vote.

Sen. Hillyard presented the bill.

Mr. Ralphs and Mr. Duncan spoke to the bill.

MOTION: Sen. Waddoups moved to pass 2nd Substitute S.B. 96 with a favorable recommendation.

The motion passed unanimously with Sen. Urquhart and Sen. McAdams absent for the vote.

2. **SB0152 - Sex Offender Restrictions Amendments (D. Hinkins)**

MOTION: Sen. Hillyard moved to send S.B. 152 back to rules.

The motion passed unanimously with Sen. Urquhart, Sen. Waddoups, and Sen. McAdams absent for the vote.

3. **SB0153 - Sex Offender Registration Amendments (D. Hinkins)**

MOTION: Sen. Hillyard moved to send S.B. 153 back to rules.

The motion passed unanimously with Sen. Urquhart and Sen. McAdams absent for the vote.

4. **HB0052 - Limitation of Actions - Criminal Offenses (B. Wilson)**

Rep. Wilson presented the bill.

Mr. Boyden spoke to the bill.

Mr. Latham spoke in opposition to the bill.

MOTION: Sen. Hillyard moved to pass H.B. 52 with a favorable recommendation.

The motion passed unanimously with Sen. Urquhart and Sen. McAdams absent for the vote.

5. **HB0202 - Death Penalty Procedures Amendments (K. McIff)**

Rep. McIff presented the bill.

MOTION: Sen. Urquhart moved to pass H. B. 202 with a favorable recommendation.

The motion passed unanimously with Sen. Hillyard and Sen. McAdams absent for the vote.

6. **SB0052 - Tortious Act Arbitration (S. Urquhart)**

MOTION: Sen. Urquhart moved to amend the bill as follows:

1. Page 2, Lines 42 through 57:

42 78B-10a-102. General provisions -- Filing -- Notice -- Limits.
43 (1) Except for bodily injury cases involving a motor vehicle as described in Sections
44 31A-22-303, 31A-22-305, and 31A-22-305.3, ~~{and}~~ medical malpractice cases as
 described in
45 Section 78B-3-401, **and governmental claims described in section 63G-7-401,** a
 person suffering personal injury or property damage as a result of tortious
46 conduct may elect to submit all bodily injury claims and property damage claims to
 arbitration
47 by filing a notice of the submission of the claim to binding arbitration in a district court if:

48 (a) **all named defendants have liability insurance or are self-insured as**
 evidenced by a separate fund to pay claims or by evidence of a retention liability
 policy that covers claims in excess of a certain monetary amount;

 (b) the claimant or the claimant's representative has:

 *** Some lines not shown ***

53 ~~{(b)}~~ (c) the notice required under Subsection (1)(a)(ii) is filed while the
 action under
54 Subsection (1)(a)(i) is still pending.

 *** Some lines not shown ***

(3) All parties to a claim may stipulate to submit the claim to arbitration under
 this chapter. If the claim is submitted to arbitration, the parties may not claim:

(a) a right of rescission under Section 78B-10a-104; or

(b) the right to a trial de novo under Section 78B-10a-108.

2. Page 3, Lines 64 through 66:

64 78B-10a-104. Rescission -- Discovery.
65 (1) (a) A ~~{person}~~ **claimant** who has elected arbitration in accordance with
 this chapter may
66 rescind the election if the rescission is made within:

3. Page 5, Line 151 through Page 6, Line 153:

151 (3) (a) If a defendant, as the moving party in a trial de novo requested in accordance
152 with Subsection 78B-10a-107(2), does not obtain a verdict that is at least
 ~~{35%}~~ **30%** less than the
153 arbitration award, the defendant is responsible for all of the nonmoving party's costs.

The motion passed unanimously with Sen. Hillyard and Sen. McAdams absent for the vote.

Mr. Purcell, Mr. Curtis, and Mr. Nielsen spoke in opposition to the bill.

Mr. Sullivan spoke in favor of the bill.

MOTION: Sen. Urquhart moved to pass S.B. 52 with a favorable recommendation.

The motion passed unanimously.

MOTION: Sen. Hillyard moved to adjourn.

The meeting adjourned at 3:57 p.m.

Sen. Mark B. Madsen, Committee Chair