

LOUISIANA STATE BAR ASSOCIATION
BOARD OF GOVERNORS
May 21, 2011

*** M I N U T E S ***

President Michael A. Patterson called to order the meeting of the Board of Governors of the Louisiana State Bar Association at 2:15 p.m., Saturday, May 21, 2011, in Baton Rouge, Louisiana. Business was conducted in accordance with the agenda below.

Agenda Item 1. Roll Call

Present were:

President, Michael A. Patterson
President-Elect, James J. Davidson III
Treasurer, Mark A. Cunningham
Secretary, Carrick B. Inabnett
Chair, Young Lawyers Section, Alainna R. Mire
First Board District Representative, Barry H. Grodsky
First Board District Representative, John H. Musser IV
Second Board District Representative, Richard K. Leefe
Third Board District Representative, Lawrence P. Simon, Jr.
Fourth Board District Representative, Winfield E. Little, Jr.
Sixth Board District Representative, Charles D. Elliott
From the Faculty of Paul M. Hebert Law Center at LSU, John M. Church
From the Louisiana State Law Institute, J. David Ziober
House of Delegates Liaison Committee Chair, Robert A. Kutcher
House of Delegates Committee on Liaison Member (non-voting), George B. Recile

Absent were:

Immediate Past President, Kim M. Boyle
Fifth Board District Representative, Darrel J. Papillion
Seventh Board District Representative, Charles L. Kincade
Eighth Board District Representative, Ronald J. Miciotto
At-Large Member, Cloyd Benjamin, Jr.
At-Large Member, Karelia R. Stewart
At-Large Member, Franchesca L. Hamilton-Acker
From the Faculty of Tulane University Law School, Tania C. Tetlow
House of Delegates Committee on Liaison Member (non-voting), Michael B. Holmes

Also present were:

Legislation Committee Chair, Michael W. McKay
Executive Director, Loretta Larsen
Associate Executive Director, Cheri Cotogno Grodsky

Professional Programs Counsel and Legislation Committee Staff Liaison,
Shawn L. Holahan
LSBA Lobbyist, Larry L. Murray

Agenda Item 2. Consideration of Recommendations of Legislation Committee

After some discussion and upon motion and second, the Board voted to SUPPORT the following bills, in accordance with the recommendations of the Legislation Committee:

- HB 85 – Requires the identification of the title producer, examining attorney and title insurer on certain transactions
The LSBA supports this bill because it is a consumer protection bill that ensures that title is researched in Louisiana.
- HB 106 – Requires reporting from providers of home incarceration or electronic monitoring services to Department of Public Safety and Corrections.
The LSBA supports this bill because it clarifies current law and is supported by prosecutors, the criminal defense bar and the administration.
- HB 129 – Provides the Louisiana Supreme Court Committee on Bar Admissions with access to criminal history information of bar examination applicants.
The LSBA supports this bill because it provides the Court's Committee on Bar Admissions with the access it needs to facilitate the character and fitness component of the admissions process.
- HB 138 – Provides with respect to eligibility for parole consideration for certain elderly inmates.
The LSBA supports this bill because it recognizes the need to ease prison overcrowding in circumstances where it poses no threat to public safety.
- HB 178 – Provides relative to transfer of funds for the Department of Children and Family Services for representation of children and indigent parents in child protection proceedings.
The LSBA supports this bill because it provides access to justice by moving these funds to the Louisiana Bar Foundation where they are distributed through grants to agencies which provide services to children and families.
- HB 217 – Provides relative to technical violations of probation.
The LSBA supports this bill because it allows for treatment of technical probation violations without incarceration. This bill is supported by all system stakeholders as a fairness issue.
- HB 272 – Provides for the issuance of a written summons in lieu of arrest for certain crimes.

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The LSBA supports this bill because it recognizes the need to ease prison overcrowding in circumstances where it poses no threat to public safety.

- HB 287 – Provides for the classification of monies in the Patient's Compensation Fund.
The LSBA supports this bill as an access to justice issues, as it asserts that monies in the fund are not state property and are not subject to appropriation by the Legislature.
- HB 361 – Revises provision relative to access to accident reports.
The LSBA supports this bill as it keeps costs down by providing access to review reports at no charge, and makes reports available earlier.
- HB 414 – Revises and consolidates statutes providing for the diminution of sentence.
The LSBA supports this bill because it agrees with and supports these changes as proposed by the Sentencing Commission, and it is endorsed by all stakeholders.
- HB 415 – Authorizes probation and parole officers to impose administrative sanctions for technical violations.
The LSBA supports this bill because it allows sanction in lieu of incarceration in instances of technical violations, and it is endorsed by all stakeholders.
- HB 538 – Provides relative to public records.
This LSBA supports this bill as an access to justice issue as it ensures that public records may be requested in any media format in which they exist within the public entity or agency.
- HB 553 – Provides for uniform fines and costs assessment form for criminal cases.
The LSBA supports this bill as it arose out of the spring 2011 Criminal Justice Summit to ensure funding through required monthly distribution of all mandated fees. While it supports in its current form, the LSBA's preference would be that the bill be amended to the original language which requires use of a uniform form.
- SB 22 – Provides relative to small succession procedures and effects.
The LSBA supports this bill as an access to justice issue as it simplifies the current language with regard to small successions.
- SB 24 – Authorizes uniform cancellation affidavit for cancellation of mortgage and vendor's lien inscriptions.
The LSBA supports this bill as it creates a uniform cancellation affidavit, but does not repeal any other method of cancellation.
- SB 27 – Provides for the individuals who may receive a patient's medical records.
The LSBA supports this as it limits to what is provided for in current law as the only charges which may be assessed for access to healthcare records.
- SB 36 – Provides relative to abstracts of title and title opinions.

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The LSBA supports this bill as it promotes accuracy by making uniform certain practices relative to title abstracts and title opinions.

After some discussion and upon motion and second, consistent with the recommendations of the Legislation Committee, the Board voted to SUPPORT the following bills with the restrictions/caveats indicated:

- HB 608 – Appropriates funds for the expenses of the Louisiana Judiciary for Fiscal Year 2011-2012.
The LSBA supports this bill provided that funding is adequate to support the judiciary.
- HB 116 – Prohibits the destruction of biological evidence collected pursuant to the investigation of certain criminal offenses.
The LSBA supports this bill subject to the removal of the end date or a viable explanation as to why there is an end date.

With the required super majority, the Board voted to take NO POSITION on the following bills for which the Legislation Committee recommended support.

- HB 320 – Creates the Equal Pay for Women Act.
- SB 169 – Provides for payment of medical claims by the insurer.
- SB 225 – Requires a mortgagee to cancel a mortgage within sixty days of full satisfaction of the obligation.

After some discussion and upon motion and second, the Board voted to OPPOSE the following bills, in accordance with the recommendations of the Legislation Committee:

- HB 172 – Provides for the inclusion of information in certain petitions as related to civil petitions regarding latent diseases.
The LSBA opposes this bill as it is generally opposed to the creation of special procedures and/or circumstances within the Code of Civil Procedure.
- HB 223 – Creates and provides for a Tax Court as an administrative agency in the office of the governor.
The LSBA is opposed to this bill as it proposes to take jurisdiction away from the judicial branch and give it to the executive branch.
- HB 255 – Authorizes domestic abuse advocates to assist petitioners in making an application for a protective order.
While the LSBA is in favor of providing assistance to victims of domestic abuse, it is opposed to this bill as it believes it creates unauthorized practice of law issues.
- HB 257 – Provides for ex-officio financial institution notaries
The LSBA is opposed to this bill because it would allow otherwise untrained individuals to serve as in-house notaries for banks.

- HB 274 – Provides relative to hospital security and police jurisdiction.
The LSBA opposes this bill because of the House of Delegates policy in opposition to immunities.
- HB 280 – Provides disclosure procedures for asbestos and silica claims.
The LSBA opposes this bill as it is generally opposed to the creation of special procedures and/or circumstances within the Code of Civil Procedure.
- HB 358 – Provides a limitation of liability, absolving school boards from taking care of their property.
The LSBA opposes this bill because of the House of Delegates policy in opposition to immunities.
- HB 445 – Provides relative to the notices of repossession.
The LSBA opposes this bill as an access to justice issue because it eliminates the requirement that a repossession agent obtain a copy of the notice indicating the right to take possession of collateral.
- HB 563, HB 564 and SB 146 – Provides relative to surface and subsurface restoration under a mineral lease or servitude.
The LSBA opposes these bills because of the House of Delegates policy in opposition to immunities.
- HB 578 – Provides for immunity from liability for homeowners associations.
The LSBA opposes these bills because of the House of Delegates policy in opposition to immunities.
- SB 117 – Changes the definition of convicted.
The LSBA opposes this bill because it proposes to broaden the definition of convicted to include juveniles in cases of both felony-grade and misdemeanor-grade acts.
- SB 149 – Provides with respect to health care provider privileges.
The LSBA opposes this bill because negates contractual obligations that health care providers have already entered into with insurance carriers.
- SB 209 – Allows private companies to monitor the criminal justice information system by providing real time electronic access to the system.
The LSBA opposes this bill as private companies should not be involved.
- SB 240 – Provides relative to oyster leases.
The LSBA opposes this bill because of the House of Delegates policy in opposition to immunities.

After some discussion and upon motion and second, consistent with the recommendations of the Legislation Committee, the Board voted to OPPOSE the following bills with the restrictions/caveats indicated:

- HB 119 – Provides relative to search warrants for bodily samples.

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Consistent with the House of Delegates policy in opposition to immunities, the LSBA opposes this bill unless the civil and criminal immunities are removed. If removed, the LSBA will SUPPORT.

- HB 230 – Amends provisions relative to dismissal of delinquency proceedings.
The LSBA opposes this bill as written but would support an amendment to current law to provide for the requirement of a contradictory hearing prior to dismissal.
- SB 61 – Constitutional amendment to provide relative to medical malpractice claims.
The LSBA opposes this bill unless amended to address only the extent of liability. If so amended, the LSBA would have NO POSITION.

With the required super majority and upon motion and second, the Board voted to take NO POSITION on the following bills for which the Legislation Committee recommended opposition:

- HB 142 – Prohibits a public entity from purchasing or selling materials which contain sexually explicit conduct.
- HB 574 – Provides that certain criminal history records are public records and for accessibility thereto.

There being no further business, the meeting was adjourned at 3:15 p.m.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Loretta Larsen", with a stylized, flowing script.

Loretta Larsen
Assistant Secretary

APPROVED BY BOARD OF GOVERNORS
JUNE 29, 2011
LAS VEGAS, NV