

**MINUTES OF THE HOUSE OF DELEGATES
OF THE LOUISIANA STATE BAR ASSOCIATION
MAY 1, 2004**

The House of Delegates was convened at 9:45 a.m. on Saturday, May 1, 2004, in the Ballroom of the Marriott Hotel in Baton Rouge, Louisiana.

I. Certification of Quorum by the Secretary.

After reviewing the delegate check-in roster, Secretary James R. McClelland determined that a quorum was present. A copy of the attendance roster is attached as an addendum to these Minutes. President Wayne J. Lee declared the meeting to be in session.

II. Acknowledgment of Resolutions Previously Adopted.

President-Elect Michael W. McKay referred the House to a listing of resolutions previously adopted by the House of Delegates and Board of Governors. He noted that the Legislation Committee had recommended No Position on HB814 regarding notification of the Office of Disciplinary Counsel of overdrafts on lawyer trust accounts, which is contrary to a position taken by the House of Delegates in January 2002. As the bill is a direct result of the action taken by the House of Delegates, the Board of Governors voted to move the bill from the No Position category to the Support category as a committee of the association has no authority to overturn policy established by the House of Delegates. Mr. McKay stated that in the future there would be four categories of bills for the House to consider; a Bar Sponsored Bill category which will be presumed Support; Bills Supported by Legislation Committee; Bills Opposed by Legislation Committee and Legislation Committee No Position Bills.

Mr. McKay then presented to the House the Executive Committee policy on amendments that may be made to bills during the legislative session. If the amendment is not material and does not change the focus of the bill that is supported or opposed by the House of Delegates, then the position adopted by the House will stand. If the amendment is material, the association will take no position unless the amendment either supports or opposes a position that the House of Delegates has voted on. Mr. McKay encouraged the House of Delegates members to track the legislation throughout the session through the LSBA web site and to contact their House of Delegates Liaisons with any concerns or questions.

III. Consideration of Legislation Committee Recommendations.

Mr. McKay outlined the procedure to be followed during the debate of the bills and introduced Michael A. Patterson, chair of the Legislation Committee, to present the committee's recommendations.

Mr. Val P. Exnicios, chair of the Bench/Bar Section, expressed concerns regarding the procedure outlined for debate and vote on the recommendations of the Legislation Committee and the method in which amendments by the legislature to the bills would be handled. It was his suggestion that if a bill is amended and the amendment is material, that the position of the association would revert to a No Position status. Following discussion, Richard B. Stricks, delegate

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from the 40th Judicial District, made the following motion:

“BE IT RESOLVED, that the House of Delegates present a report to the legislature stating that the Legislation Committee has taken their recommended actions on the monitored bills which may or may not be the will of the House of Delegates.”

The motion was seconded and failed.

Mr. Patterson then made the following motion:

“BE IT RESOLVED, that the House of Delegates adopt the recommendations of the Legislation Committee on House Bills 5, 30, 38, 108, 126, 128 and 148.”

The motion was seconded.

John A. Hernandez III, chair of the Francophone Section, made the following motion:

“BE IT RESOLVED, that House Bills 38 and 108 be removed from discussion for consideration separately.”

The resolution was seconded and adopted.

John S. Coulter, delegate from the 19th Judicial District, made the following motion:

“BE IT RESOLVED, that each legislative bill be considered individually and viewed from the internet before voting and moving to the next bill.”

The motion was seconded and adopted.

Joseph L. Shea, Jr. made the following motion:

“BE IT RESOLVED, that the House of Delegates limit consideration to those bills that relate to the practice of law, the administration of justice, the delivery of legal services to society, the improvement of the courts, and other matters consistent with the Association’s mission and purposes.”

The motion was seconded and adopted.

Marsha McNulty, delegate from the 16th Judicial District, made the following motion:

“BE IT RESOLVED, that the Legislation Committee develop a procedure as to how the House of Delegates handles addressing legislative bills and that the recommendation be brought before the House of Delegates at its June meeting.”

The motion was seconded and defeated.

President Lee recessed the House for ten minutes to allow the Legislation Committee chair to extract those bills outlined in Mr. Shea’s motion. When the House was called back into session, it took the following actions:

Bills Supported by Louisiana State Bar Association

HB 5	Deletes residency requirements for contract attorneys for indigent defense board.
HB 1482	Appropriates funds for the expenses of the judiciary.
HCR 28	Requests the Judicial Council of the Louisiana Supreme Court to study funding sources for compensation to jurors who serve on lengthy trials.
HCR 31	Requests the Judicial Council to study the effectiveness of drug courts.
HCR 33	Requests the Judicial Council of the Louisiana Supreme Court to study the implementation of a one-day, one trial system for petit juries.
HCR 59	Continues the Task Force on Legal Representation in Child Protection Cases.
HCR 90	Requests the Supreme Court to recommend a uniform criminal record expungement procedure.
HCR 37	Acknowledges and supports the commemoration of the fiftieth anniversary of <i>Brown v. Board of Education</i> .
SB 11	Establishes the Louisiana Commission on Civic Education.
SB 432	Changes the amount of attorney fees on workers’ compensation awards to twenty percent of the recovered amount.
SB 709	Provides for the disposition of original records filed by the clerks of court and provides for the evidentiary status of reproductions of such records.
SCR 56	Directs the legislative auditor to compile a report on the cost of operating the district court system in Louisiana.
SR 11	Acknowledges and supports the commemoration of the fiftieth anniversary of the case of <i>Brown v. Board of Education</i> .

Bills Opposed by the Louisiana State Bar Association

HB 153	Increases the civil jurisdictional amount of justice of the peace courts.
HB 164	Provides for the prejudgment interest rate in suits against the state or political subdivisions.
HB 179	Requires notice of retention of counsel on third party claims on insurance policies.
HB 200**	Requires that criminal history information be made available to the Louisiana Attorney Disciplinary Board, Office of the Disciplinary Counsel.
HB 294	Requires a public record to be maintained of attorneys adjudged guilty of contempt.
HB 301	Provides for the rate of judicial interest for child support.
HB 371	Requires court costs to be paid before a judgment is signed.
HB 409	Provides relative to documents produced by governmental entities pursuant to a subpoena.
HB 427	Provides for the duty to report fraudulent acts involving insurance.
HB 477	Increases the civil jurisdictional amount of justice of the peace courts.
HB 539	Provides for the Judiciary Commission and the Court of Judicial Discipline.
HB 547	Constitutional Amendment which provides relative to the Judiciary Commission and the Court of Judicial Discipline.
HB 919	Provides for recusation of judges.
HB 1518	Provides for the award of attorney fees in offer of judgment procedures.
SB 14**	Authorizes the release of criminal history records to the Office of Disciplinary Counsel of the Louisiana Attorney Disciplinary Board of the Louisiana State Bar Association.
SB 71	Requires legislative approval prior to the state entering into settlement of a claim that equals or exceeds \$2,500,000.
SB 101	Establishes an unvouchered expense allowance for the judges of the courts of appeal.
SB 169	Provides relative to qualifications of counsel in child protection proceedings.
SB 228	Provides for arbitrators' fees and authorizes an appeal of an arbitration opinion where the opinion is contrary to law, evidence, or facts or based on fraud.
SB 236	Provides for an increase in the nonrefundable civil filing fee that is credited to the Judges' Supplemental Compensation Fund.
SB 376	Requires agreements of all parties to transfer a matter from small claims courts to regular district court.
SB 597	Requires unclaimed or excess funds in civil court settlements of class action suits to be transferred for the operation of juvenile and criminal courts.

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SB 635 Provides for one-year period of prescription for filing of malpractice action against notaries.

****** *Note: These bills were opposed as written. If the bills are amended to restrict the disclosure to the time formal charges are brought against the attorney, the position of the House of Delegates would be to take no position on the bills.*

The following motion was made:

“BE IT RESOLVED, that the Louisiana State Bar Association take No Position on those bills not supported or opposed.”

The motion was seconded and adopted.

There being no further business before the House, President Lee declared the meeting adjourned at 1:23 p.m.

Respectfully Submitted by:

James R. McClelland
Secretary

Date