

House Committee on Civil Law and Procedure

Minutes of Meeting
2018 Regular Session
April 30, 2018

I. CALL TO ORDER

Representative Raymond E. Garofalo, Jr., chairman of the House Committee on Civil Law and Procedure, called the meeting to order at 9:47 a.m. in Room 4, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative Raymond E. Garofalo, Jr., chairman
Representative Julie Emerson
Representative Randal L. Gaines, vice chairman
Representative Sam L. Jenkins, Jr.
Representative Tanner D. Magee
Representative Gregory A. Miller
Representative Alan Seabaugh

MEMBERS ABSENT:

Representative Robby Carter
Representative Raymond J. Crews
Representative Gregory Cromer

STAFF MEMBERS PRESENT:

Robert A. Singletary, attorney
Annie Smith, attorney
Stephanie Weinman, secretary

ADDITIONAL ATTENDEES PRESENT:

Jordan Zeringue, clerk
Desiree Cotton, clerk
Myrtis Jarrell, sergeant at arms

III. DISCUSSION OF LEGISLATION

Senate Bill No. 466 by Senator Price

Senator Price presented Senate Bill No. 466, which provides relative to security deposits for residential leases.

Professor Chris Odinct, Southern University, 2 Roosevelt Steptoe St., Baton Rouge, LA 70813, (225) 771-4900, spoke in support of House Bill No. 466.

Representative Jenkins offered a motion to report Senate Bill No. 466 favorably. Without objection, Senate Bill No. 466 was reported favorably by a vote of 6 yeas and 0 nays. Representatives Garofalo, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 3 in support. Witness cards are included in the committee records.

Senate Bill No. 358 by Senator Luneau

Senator Luneau presented Senate Bill No. 358, which authorizes and provides relative to certain electronic notarial acts.

On behalf of Senator Luneau, Representative Garofalo offered amendments to: (1) add a definition of "communication technology"; (2) make technical changes; (3) add a definition of "identity proofing"; (4) add "means of analysis of biometric data" to identity proofing; (5) delete "notarial act" from the definitions; (6) change certain information requirements to be contained in the electronic records; (7) add a provision to make legislation applicable to both the electronic notarial act and online notarial act; (8) require the notary to be physically located in the state; (9) change the period of time to retain electronic records from five to ten years; (10) add a provision authorizing the principal to be located out of the state and procedures for verifying the principal; (11) add provision requiring the electronic notarial act to be authorized by the Louisiana Uniform Electronic Transactions Act; (12) make provision applicable to property located only in Louisiana; and (13) add a provision relative to acts executed both by electronic means and by physical signature. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 6 yeas and 0 nays. Representatives Garofalo, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Stephen Morel, Civic Source, 935 Gravier St., Suite 1700, New Orleans, LA 70112, (504) 858-9839, spoke in support of Senate Bill No. 358.

David Boneno, Louisiana Bankers Association, 5555 Bankers Ave., Baton Rouge, LA 70808, (225) 214-4836, spoke in support of Senate Bill No. 358.

Joe Gendron, Louisiana Bankers Association, 5555 Bankers Ave., Baton Rouge, LA 70808, spoke in support of Senate Bill No. 358.

Kathryn Belanger, Louisiana Land Title Association, 433 Metairie Rd., Suite 525, Metairie, LA 70005, (225) 907-4893, spoke in opposition to Senate Bill No. 358.

Anne Raymond, Louisiana Land Title Association, 510 Nashville Ave., New Orleans, LA 70115, (504) 566-8647, spoke in opposition to Senate Bill No. 358.

Larry Murray, Louisiana State Bar Association, P.O. Box 44153, Baton Rouge, LA 70804, (225) 381-0127, spoke in opposition to Senate Bill No. 358.

Pam Alonso, Louisiana Notary Association, 12418 Faucheux Rd., Gonzales, LA 70737, (225) 315-1414, spoke in opposition to Senate Bill No. 358.

Scott Wilfong, 13374 Whippoorwill Ave., Baton Rouge, LA 70817, (225) 317-8640, spoke in opposition to Senate Bill No. 358.

Gary O'Neal, Louisiana Notary Association, 20224 Gardens Ct., Walker, LA 70785, (225) 788-4434, spoke in opposition to Senate Bill No. 358.

Dr. Shane Milazzo, 131 Windy Gap Rd., Duson, LA 70529, (337) 654-5012, spoke in opposition to Senate Bill No. 358.

Mallory Waller, Louisiana State Law Institute, Room W127, Paul M. Hebert Law Center, 1 East Campus Drive, Baton Rouge, LA 70803, spoke for information only on Senate Bill No. 328.

Kyle Ardoin, First Assistant Secretary of State, 8585 Archives Ave., Baton Rouge, LA 70809, (225) 922-2880, spoke for information only on Senate Bill No. 358.

Representative Garofalo offered amendments to: (1) change the definition of online notarial act; (2) make technical changes; (3) provide that an online notarial act shall not be considered an authentic act; (4) authorize clerks of court not to accept an electronic notarial act for recording until a plan for acceptance has been implemented; and (5) change the effective date from August 1, 2019, to December 31, 2020. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Garofalo offered an amendment to require all parties be physically present before the notary public for the execution of the electronic notarial act. Representative Garofalo offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Magee offered a motion to report Senate Bill No. 358 with amendments, to which Representative Gregory Miller objected. The secretary called the roll, and the motion failed to pass by a vote of 3 yeas and 4 nays. Representatives Emerson, Gaines, and Magee voted yea. Representatives Garofalo, Jenkins, Gregory Miller, and Seabaugh voted nay.

Witness cards submitted by individuals who did not speak are as follows: 2 in support, 5 in opposition, and 1 for information only. Witness cards are included in the committee records.

Senate Bill No. 164 by Senator Morrell

Senator Morrell presented Senate Bill No. 164, a constitutional amendment which authorizes the phase-in of increases in ad valorem taxation under certain circumstances.

Representative Garofalo offered a motion to adopt the House Rule 6.8(A) Report to Senate Bill No. 164, which stated that the measure could not be accomplished statutorily and would, therefore, require a constitutional amendment. Without objection, the House Rule 6.8(A) Report to Senate Bill No. 164 was adopted by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Garofalo offered a motion to report Senate Bill No. 164 without amendments. Without objection, Senate Bill No. 164 was reported without amendments by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 1 in support. Witness cards are included in the committee records.

Senate Bill No. 243 by Senator Morrell

Senator Morrell presented Senate Bill No. 243, a constitutional amendment which requires unanimous juries for felonies.

Representative Garofalo offered a motion to adopt the House Rule 6.8(A) Report to Senate Bill No. 243, which stated that the measure could not be accomplished statutorily and would, therefore, require a constitutional amendment. Without objection, the House Rule 6.8(A) Report to Senate Bill

No. 243 was adopted by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Garofalo offered a motion to report Senate Bill No. 243 without amendments. Without objection, Senate Bill No. 243 was reported without amendments by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 8 in support. Witness cards are included in the committee records.

Senate Bill No. 233 by Senator Morrell

Senator Morrell presented Senate Bill No. 233, which provides for nullification of nondisclosure agreements to conceal criminal activity.

Representative Seabaugh offered a technical amendment. Representative Seabaugh offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Seabaugh offered a motion to report Senate Bill No. 233 with amendments. Without objection, Senate Bill No. 233 was reported with amendments by a vote of 7 yeas and 0 nays. Representatives Garofalo, Emerson, Gaines, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 1 in support. Witness cards are included in the committee records.

Senate Bill No. 147 by Senator Morrell

Senator Morrell presented Senate Bill No. 147, which provides relative to a defamation claim brought by an alleged perpetrator of sexual misconduct against the alleged victim.

Morgan Lamandre, Sexual Trauma Awareness and Response, 5615 Corporate Blvd., Suite 200, Baton Rouge, LA 70808, (225) 615-7093, spoke in support of Senate Bill No. 147.

Representative Jenkins offered a motion to report Senate Bill No. 147 favorably. Without objection, Senate Bill No. 147 was reported favorably by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Senate Bill No. 543 by Senator Lambert

Senator Lambert presented Senate Bill No. 543, which provides relative to court costs for small successions.

Representative Jenkins offered a motion to report Senate Bill No. 543 favorably. Without objection, Senate Bill No. 543 was reported favorably by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 1 in support. Witness cards are included in the committee records.

Senate Bill No. 91 by Senator Claitor

Senator Claitor presented Senate Bill No. 91, which authorizes exemplary damages in civil actions for death from hazing.

Representative Magee offered a motion to report Senate Bill No. 91 favorably. Without objection, Senate Bill No. 91 was reported favorably by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Senate Bill No. 497 by Senator Cortez

Senator Cortez presented Senate Bill No. 497, which authorizes the expropriation of property including rights-of-way for use in certain projects in the city of Lafayette and parish of Lafayette.

Senator Cortez provided a handout, Exhibit A, which is included in the committee records.

Mayor President Joel Robideaux, Lafayette Consolidated Government, no address provided, (337) 291-8300, spoke in support of Senate Bill No. 497.

Representative Jenkins offered a motion to report Senate Bill No. 497 favorably. Without objection, Senate Bill No. 497 was reported favorably by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 4 in support. Witness cards are included in the committee records.

House Concurrent Resolution No. 52 by Representative Foil

On behalf of Representative Foil, David Boneno, Louisiana Bankers Association, 5555 Bankers Ave., Baton Rouge, LA 70808, (225) 214-4836, presented House Concurrent Resolution No. 52, which requests the Louisiana State Law Institute to study exemptions from seizure of certain retirement accounts.

On behalf of the author, Representative Garofalo offered amendments to: (1) add language describing the United States Supreme Court's action in *Clark v. Rameker* and (2) modify the directive to the Louisiana State Law Institute. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Jenkins offered a motion to report House Concurrent Resolution No. 52 with amendments. Without objection, House Concurrent Resolution No. 52 was reported with amendments by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Senate Bill No. 396 by Senator Gary Smith

On behalf of Senator Gary Smith, Representative Greg Miller presented Senate Bill No. 396, which provides relative to gestational carrier contracts.

Professor Andrea Carroll, Louisiana State Law Institute, Paul M. Hebert Law Center, Room W127, University Station, Baton Rouge, LA 70803, spoke for information only on Senate Bill No. 396.

Representative Seabaugh in the chair.

Chairman Garofalo in the chair.

Representative Gregory Miller offered a motion to report Senate Bill No. 396 favorably. Without objection, Senate Bill No. 396 was reported favorably by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by those who did not speak are as follows: 1 in opposition. Witness cards are included in committee records.

Senate Bill No. 288 by Senator Perry

On behalf of Senator Perry, Representative Magee presented Senate Bill No. 288, which provides relative to child support orders.

Gary Franklin, Department of Children and Family Services, 627 N. 4th St., Baton Rouge, LA 70802, (225) 342-4785, spoke for information only on Senate Bill No. 288.

Representative Garofalo offered amendments to: (1) clarify language in proposed law regarding the last known address of the obligor or obligee and (2) delete conflicting provisions to clarify that for cases no longer receiving support enforcement services from the Department of Children and Family Services, support orders shall be transferred to the district or family court in the same parish as the

juvenile court transferring the order. Representative Garofalo offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Representative Magee offered a motion to report Senate Bill No. 288 with amendments. Without objection, Senate Bill No. 288 was reported with amendments by a vote of 6 yeas and 0 nays. Representatives Garofalo, Emerson, Jenkins, Magee, Gregory Miller, and Seabaugh voted yea.

Witness cards submitted by individuals who did not speak are as follows: 1 in support and 1 for information only. Witness cards are included in the committee records.

IV. OTHER BUSINESS

There was no other business.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

The meeting was adjourned at 12:45 p.m.

Respectfully submitted,

Chairman Raymond E. Garofalo, Jr.
House Committee on Civil Law and Procedure

Date adopted: