

House Committee on Civil Law and Procedure

Minutes of Meeting
2020 Regular Session
May 12, 2020

I. CALL TO ORDER

Representative Gregory A. Miller, chairman of the House Committee on Civil Law and Procedure, called the meeting to order at 9:06 a.m. in Room 6, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative Gregory A. Miller, chairman
Representative Beryl A. Amedée
Representative Robby Carter
Representative Wilford Dan Carter, Sr.
Representative Phillip R. DeVillier
Representative Michael Charles Echols
Representative Julie Emerson
Representative Lawrence "Larry" Frieman
Representative Valarie Hodges
Representative Patrick O. Jefferson
Representative Sam L. Jenkins, Jr.
Representative Michael T. Johnson, vice chairman
Representative Mandie Landry
Representative Nicholas Muscarello, Jr.
Representative Richard James Nelson
Representative Thomas A. Pressly
Representative Alan Seabaugh

MEMBERS ABSENT:

Representative Cedric B. Glover

STAFF MEMBERS PRESENT:

Annie Smith, attorney
Amy Pirtle, attorney
Diane Merritt, committee administrative assistant

ADDITIONAL ATTENDEES PRESENT:

Faye Talbot, sergeant at arms
Myrtis Jarrell, sergeant at arms
Danny Leming, sergeant at arms

III. DISCUSSION OF LEGISLATION**House Bill No. 820 by Representative Marino**

Representative Marino presented House Bill No. 820, which provides for the emergency suspension of time limitations in certain civil proceedings.

On behalf of Representative Marino, Representative Jenkins offered amendments to provide for the termination of the period of suspensions. Representative Jenkins offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 15 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Echols, Frieman, Hodges, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

Lauren Chauvin, Louisiana Association of Business and Industry, 451 Florida Boulevard, Baton Rouge, LA 70898, spoke in opposition to House Bill No. 820.

Representative Jenkins offered a motion to report House Bill No. 820 with amendments, to which Representative Amedee objected. The administrative assistant called the roll, and the motion failed to pass by a vote of 6 yeas, 8 nays, and 1 abstention. Representatives Robby Carter, Wilford Carter, Jefferson, Jenkins, Landry, and Muscarello voted yea. Representatives Amedee, DeVillier, Echols, Frieman, Hodges, Mike Johnson, Nelson, and Pressly voted nay. Representative Gregory Miller abstained.

Representative Amedee offered a motion to involuntarily defer action on House Bill No. 820. Without objection, action on House Bill No. 820 was involuntarily deferred by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Echols, Frieman, Hodges, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, and Pressly voted yea. Representative Gregory Miller abstained.

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

Further action on House Bill No. 820 was taken at a meeting held on May 18, 2020. Please check for the subsequent action to complete the record of discussion and motions on House Bill No. 820.

House Bill No. 805 by Representative Pressly

Representative Pressly presented House Bill No. 805, which provides for the suspension of prescription.

Representative Pressly offered a motion to report House Bill No. 805 favorably. Without objection, House Bill No. 805 was reported favorably by a vote of 15 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Echols, Frieman, Hodges, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

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

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 1 in support. Copies of these statements are included in the committee records.

House Concurrent Resolution No. 25 by Representative Gregory Miller

Representative Gregory Miller presented House Concurrent Resolution No. 25, which provides for the suspension of all civil prescriptive, preemptive, filing, and other deadlines in response to the COVID-19 Public Health Emergency declared by the governor.

Representative Gregory Miller offered amendments to:

- (1) Specify that lien periods, Titles 38 and 48 of the Louisiana Revised Statutes, and all other Codes and Titles of the Louisiana Revised Statutes are included in the suspension.
- (2) Add March 16, 2020, through September 30, 2020, as the period to apply the proposed suspension.
- (3) Limit applicability to matters which would have expired from March 16, 2020, through September 30, 2020.
- (4) Specify that the period of March 16, 2020, through September 30, 2020, shall be counted toward the accrual of actions which would not have expired during the effective dates of the suspension.

Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Frieman, Hodges, Jefferson,

Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

Representative Gregory Miller offered a motion to report House Concurrent Resolution No. 25 with amendments. Without objection, House Concurrent Resolution No. 25 was reported with amendments by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Frieman, Hodges, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

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

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 1 in support. Copies of these statements are included in the committee records.

House Bill No. 9 by Representative Garofalo

Representative Garofalo presented House Bill No. 9, which enacts the Omnibus Premium Reduction Act of 2020.

Representative Jenkins, in a point of order, asked that the record reflect his objection to House Bill No. 9 due to a dual object concern.

On behalf of the author, Representative Gregory Miller offered amendments to:

- (1) Make the two year prescriptive period for delictual actions applicable to vehicular accidents.
- (2) Remove the repeal of the direct action statute with limitations.
- (3) Add a requirement for insurers to file with the commissioner of insurance for approval of premium rates reflecting anticipated savings.

Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 15 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Emerson, Frieman, Hodges, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

On behalf of Representative Garofalo, Representative Gregory Miller offered amendments to:

- (1) Revise the collateral source rule by limiting a plaintiff's recovery to amounts actually paid and provide definitions.
- (2) Allow a party to submit evidence of insurance premiums paid.
- (3) Allow a party to submit evidence of amounts paid if the claimant would have submitted a claim.
- (4) Repeal provisions regarding evidence of failure to wear a safety belt.

Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Echols, Emerson, Frieman, Jefferson, Jenkins, Landry, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

Commissioner James Donelon, Louisiana Department of Insurance, 1702 North Third Street, Baton Rouge, LA 70802, (225) 342-7275, spoke in support of House Bill No. 9.

Toni McAllister, representing Louisiana Loggers Association and McManus Timber Company, 9168 Highway 84W, Winnfield, LA 71483, (318) 729-1726, spoke in support of House Bill No. 9.

Randy Guillot, representing Triple G. Express, 800 St. George Avenue, Jefferson, LA 70121, (504) 731-2847, spoke in support of House Bill No. 9.

Christy Smith, 28490 Wagner Road, Albany, LA 70711, (225) 588-1722, spoke in support of House Bill No. 9.

Steve Duke, representing Louisiana Manufactured Housing Association, P.O. Box 80029, Baton Rouge, LA 70898, (225) 324-6960, spoke in support of House Bill No. 9.

Scott Ballard, Ballard Brands, 451 Florida Boulevard, Baton Rouge, LA 70809, spoke in support of House Bill No. 9.

Rowland B. Stalter, 3510 North Causeway Boulevard, Metairie, LA 70002, (504) 846-4031, spoke in support of House Bill No. 9.

Jeff Albright, Independent Insurance Agents and Brokers of Louisiana, 18153 Petroleum Drive, Baton Rouge, LA 70809, (225) 236-1366, spoke in support of House Bill No. 9.

Cleveland Auzenne, Auzenne Transport, 210 Polly Lane, Lafayette, LA 70508, (337) 852-7296, spoke in support of House Bill No. 9.

Representative Robby Carter offered an amendment to remove the repeal of the direct action against an insurer when service of citation or other process cannot be made on the insured or when the insurer is an uninsured motorist carrier. Representative Robby Carter offered a motion to adopt the proposed amendments, to which Representative Seabaugh objected. The administrative assistant called the roll, and the motion failed to pass by a vote of 5 yeas, 11 nays, and 1 abstention. Representatives Robby Carter, Wilford Carter, Jefferson, Jenkins, and Landry voted yea. Representatives Amedee, DeVillier, Echols, Emerson, Frieman, Hodges, Mike Johnson, Muscarello, Nelson, Pressly, and Seabaugh voted nay. Representative Gregory Miller abstained.

Bob Morrison, Louisiana District Judges Association, P.O. Box 788, Amite, LA 70422, (225) 665-1562, spoke for informational purposes only.

Scott Andrews, Louisiana State Bar Association, 8201 Jefferson Highway, Baton Rouge, LA 70809, (225) 929-7481, spoke in opposition to House Bill No. 9.

At the request of Representatives Landry and Jefferson, the report of the actuarial subcommittee dated February 19, 2019, Exhibit A, is included in the committee records.

Robert E. Kleinpeter, Louisiana Association for Justice, 442 Europe Street, Baton Rouge, LA 70802, (225) 383-5554, spoke in opposition to House Bill No. 9.

Benjamin Mouton, attorney at law, 340 Florida Street, Baton Rouge, LA 70801, (225) 344-3555, spoke in opposition to House Bill No. 9.

Don Cazayoux, attorney at law, 257 Maximilian Street, Baton Rouge, LA, (225) 650-7400, spoke in opposition to House Bill No. 9.

Representative DeVillier offered a motion to report House Bill No. 9 with amendments, to which Representative Jenkins objected. The administrative assistant called the roll, and House Bill No. 9 was reported with amendments by a vote of 11 yeas and 5 nays. Representatives Amedee, DeVillier, Echols, Emerson, Frieman, Hodges, Mike Johnson, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representatives Robby Carter, Wilford Carter, Jefferson, Jenkins, and Landry voted nay.

Witness cards submitted by individuals who did not speak are as follows: 29 in support, 7 in opposition, and 6 for information only. Witness cards are included in the committee records.

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 51 in support and 18 in opposition. Copies of these statements 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 5:57 p.m.

Respectfully submitted,

Chairman Gregory A. Miller
House Committee on Civil Law and Procedure