

House Committee on Judiciary

Minutes of Meeting
2016 Regular Session
April 21, 2016

I. CALL TO ORDER

Representative Katrina R. Jackson, chairman of the House Committee on Judiciary, called the meeting to order at 9:08 a.m. in Room 1, in the State Capitol in Baton Rouge, Louisiana. The secretary called the roll.

II. ROLL CALL

MEMBERS PRESENT:

Representative Katrina R. Jackson, chairman
Representative Bryan Adams
Representative John H. Bagneris
Representative Chad Brown
Representative Robby Carter
Representative Jean-Paul P. Coussan
Representative Jimmy Harris
Representative Lowell C. "Chris" Hazel
Representative Valarie Hodges
Representative Mike Johnson, vice chair
Representative Robert A. Johnson
Representative Christopher J. Leopold
Representative Joseph P. Lopinto III
Representative Tanner D. Magee
Representative John C. "Jay" Morris, III
Representative Jerome "Zee" Zeringue

MEMBERS ABSENT:

Representative Gary M. Carter, Jr.
Representative Randal L. Gaines
Representative Robert E. Shadoin

STAFF MEMBERS PRESENT:

Michelle D. Fontenot, legal division director
Lisha Landry, attorney
Diane Merritt, secretary

ADDITIONAL ATTENDEES PRESENT:

Victoria Langston, clerk
Beverly Vincent, sergeant at arms

III. DISCUSSION OF LEGISLATION**House Bill No. 151 by Representative Hodges**

Representative Hodges presented House Bill No. 151, which prohibits the creation of sanctuary cities. She also offered a substitute bill to House Bill No. 151 to be considered by the committee.

Kris W. Kobach, Kansas secretary of state, Memorial Hall, 1st Floor, 120 S.W. 10th Ave., Topeka, KS 66612, (785) 296-4564, testified in support of the substitute for House Bill No. 151.

Attorney General Jeff Landry, Louisiana Department of Justice, 1885 N. Third St., Baton Rouge, LA 70802, (225) 326-6079, testified in support of the substitute for House Bill No. 151.

Representative Jimmy Harris offered an amendment to remove language referencing the Joint Legislative Committee on the Budget, sending notice to the State Bond Commission, and the removal of sanctions. Representative Jimmy Harris offered a motion to adopt the proposed amendment, to which Representative Hodges objected. The secretary called the roll, and the motion failed to pass by a vote of 6 yeas and 9 nays. Representatives Jackson, Bagneris, Chad Brown, Robby Carter, Coussan, and Jimmy Harris voted yea. Representatives Adams, Hazel, Hodges, Mike Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted nay.

Representative Robby Carter offered an amendment to prevent law enforcement officers of a state or local political subdivision from asking an individual his citizenship or immigration status when probable cause or reasonable suspicion exists. Representative Robby Carter offered a motion to adopt the proposed amendment, to which Representative Mike Johnson objected. The secretary called the roll, and the motion failed to pass by a vote of 6 yeas and 10 nays. Representatives Jackson, Bagneris, Chad Brown, Robby Carter, Jimmy Harris, and Robert Johnson voted yea. Representatives Adams, Coussan, Hazel, Hodges, Mike Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted nay.

Representative Lopinto offered an amendment to prevent law enforcement officers of a state or local political subdivision from asking any suspect, arrestee, or person in custody his citizenship or immigration status. Representative Lopinto offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 16 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Robby Carter, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

Representative Chad Brown offered an amendment to include that, if a consent decree exists between a political subdivision and the federal government, the attorney general of Louisiana shall submit a request of the U.S. attorney general to determine whether the consent decree is in violation of the provisions of this Act. Representative Chad Brown offered a motion to adopt the proposed amendment, to which Representative Mike Johnson objected. The secretary called the roll, and the motion failed to pass by a vote of 7 yeas and 9 nays. Representatives Jackson, Bagneris, Chad Brown, Robby Carter, Jimmy Harris, Robert Johnson, and Magee voted yea. Representatives Adams, Coussan, Hazel, Hodges, Mike Johnson, Leopold, Lopinto, Jay Morris, and Zeringue voted nay.

Cary R. Holliday, past immigration judge in Miami, FL 2021 La Cache Ct., Baton Rouge, LA 70816, (225) 324-9398, testified in support of the substitute bill to House Bill No. 151.

Harold D. Magee, 17229 Rue Village, Prairieville, LA 70769, (225) 573-1465, testified in support of the substitute bill to House Bill No. 151.

Dennis Burke, 6525 Gladys St., Metairie, LA 70003, (504) 460-6302, testified in support of the substitute bill to House Bill No. 151.

Zach Butterworth, director of federal affairs, City of New Orleans, 1300 Perdido St., New Orleans, LA 70112, (504) 669-4111, testified in opposition to the substitute bill to House Bill No. 151.

Timothy Averill, compliance division, New Orleans Police Department, 715 S. Broad St., New Orleans, LA 70119, (504) 658-5281, testified in opposition to the substitute bill to House Bill No. 151.

Susan Weishar, Ph.D., Jesuit Social Research Institute, Loyola University, 6363 St. Charles Ave., New Orleans, LA 70118, (504) 864-7749, testified in opposition to the substitute bill to House Bill No. 151.

Chief John D. Thomas, New Orleans Police Department, 715 S. Broad St., New Orleans, LA 70119, (504) 658-5281, testified in opposition to the substitute bill to House Bill No. 151.

Fernando Lopez, Congress of Day Laborers, 217 N. Prieur St., New Orleans, LA 70112, (504) 258-1000, testified in opposition to the substitute bill to House Bill No. 151.

Representative Hodges offered a motion to report House Bill No. 151 by substitute. Without objection, House Bill No. 151 was reported by substitute by a vote of 16 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Robby Carter, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yeas.

Witness cards submitted by individuals who did not speak are as follows: 3 in support, and 56 in opposition. Witness cards are included in the committee records.

House Bill No. 1123 by Representative Robert Johnson

Representative Robert Johnson offered a motion to voluntarily defer action on House Bill No. 1123, which provides for the assessment of a fee for diversion cases in the 12th JDC. Without objection, action on House Bill No. 1123 was voluntarily deferred by a vote of 12 yeas and 0 nays. Representatives Jackson, Adams, Chad Brown, Robby Carter, Coussan, Hazel, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, and Zeringue voted yeas.

House Bill No. 453 by Representative Jay Morris

Representative Jay Morris presented House Bill No. 453, which provides relative to the role of local governments with respect to immigration enforcement.

Representative Jay Morris offered amendments which:

- (1) Remove the provision creating a duty of a peace officer to report the immigration status of a person under arrest to the U.S. Immigration and Customs Enforcement Office.
- (2) Remove liability provision applicable to law enforcement agencies.
- (3) Allow the attorney general to recover all state expended funds from a governing authority or official associated with a person who should have been detained but was not due to a policy that was in contravention of proposed law.
- (4) Remove the provision dealing with fiscal sanctions for violations of a court ordered writ of mandamus or proposed law.
- (5) Add that the attorney general has standing to bring a writ of mandamus.
- (6) Make technical amendments.

Representative Jay Morris offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 14 yeas and 0 nays. Representatives Jackson, Adams,

Bagneris, Chad Brown, Coussan, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

Attorney General Jeff Landry, Louisiana Department of Justice, 1885 N. Third St., Baton Rouge, LA 70802, (225) 326-6079, testified in support of House Bill No. 453.

Kris W. Kobach, Kansas secretary of state, Memorial Hall, 1st Floor, 120 S.W. 10th Ave., Topeka, KS 66612, (785) 296-4564, testified in support of House Bill No. 453.

Representative Robby Carter offered an amendment to provide that a local governing authority or official cannot adopt a policy that limits law enforcement investigations into the immigration status of a suspect, arrestee, or other person in custody. Representative Robby Carter offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 15 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Robby Carter, Coussan, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

Zach Butterworth, director of federal affairs, City of New Orleans, 1300 Perdido St., New Orleans, LA 70112, (504) 669-4111, testified in opposition to House Bill No. 453.

Chief John D. Thomas, New Orleans Police Department, 715 S. Broad St., New Orleans, LA 70119, (504) 658-5281, testified in opposition to House Bill No. 453.

Susan Weishar, Ph.D., Jesuit Social Research Institute, Loyola University, 6363 St. Charles Ave., New Orleans, LA 70118, (504) 864-7749, testified in opposition to House Bill No. 453.

Representative Jay Morris offered a motion to report House Bill No. 453 with amendments. Without objection, House Bill No. 453 was reported with amendments by a vote of 15 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Robby Carter, Coussan, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

Witness cards submitted by individuals who did not speak are as follows: 2 in support, and 63 in opposition. Witness cards are included in the committee records.

House Bill No. 667 by Representative Reynolds

Representative Reynolds presented House Bill No. 667, which provides relative to distribution of alcoholic beverages.

Representative Jackson offered amendments which:

- (1) Require wine producers, manufacturers, and retailers to obtain a permit prior to selling or shipping wine directly to Louisiana consumers, and provide for permit fees.
- (2) Change the requirement regarding the filing of certain statements with the Department of Revenue.
- (3) Provide that persons transporting wine in violation of the law shall be subject to the present law civil penalty, the seizure of wine, or both.
- (4) Add an effective date of July 1, 2016.

Representative Jackson offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 14 yeas and 0 nays. Representatives Jackson, Adams, Chad Brown, Robby Carter, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

Chris Young, representing Wine and Spirits Foundation, 575 N. 8th St., Baton Rouge, LA 70802, (225) 343-3436, testified for information only on House Bill No. 667.

Representative Jackson offered an amendment to amend the conditions in which wine may be shipped directly to Louisiana consumers, and authorize the commissioner to promulgate rules governing the sale and shipment of wine directly to Louisiana consumers. Representative Jackson offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 14 yeas and 0 nays. Representatives Jackson, Adams, Chad Brown, Robby Carter, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

Representative Hazel offered a motion to report House Bill No. 667 with amendments. Without objection, House Bill No. 667 was reported with amendments by a vote of 15 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

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

House Bill No. 988 by Representative Armes

Representative Armes presented House Bill No. 988, which provides relative to Louisiana Military Family Assistance.

Representative Coussan offered a motion to report House Bill No. 988 favorably. Without objection, House Bill No. 988 was reported favorably by a vote of 14 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Coussan, Jimmy Harris, Hazel, Hodges, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

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

House Bill No. 710 by Representative Hollis

Representative Hollis presented House Bill No. 710, which changes the time period in which cigarettes must be stamped.

Representative Jackson offered amendments which:

- (1) Add the requirement that the stamping of the unstamped cigarettes occur prior to offering for sale, removing, or distributing them in or into the state.
- (2) Add that stamped cigarettes shall be kept separate and apart from the dealer's stock of unstamped cigarettes.
- (3) Remove the prima facie presumption exception for bonded interstate tobacco dealers and extend the exception to a dealer holding a valid stamping agent designation.
- (4) Require a dealer holding an exporter license to affix the stamp required by another state to the package within 72 hours after receipt unless the other state does not require the stamp, then the dealer may sell cigarettes into the other state if the excise, use, or similar tax is paid.
- (5) Require the dealer to ensure that any cigarettes and roll-your own tobacco in its stock that are not listed on the attorney general's state directory are kept separate and apart from approved stock.
- (6) Make technical amendments.

Representative Jackson offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 14 yeas and 0 nays. Representatives Jackson, Bagneris, Chad Brown, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

David Tatman, representing Louisiana Association of Wholesalers, 3043 Old Forge Dr., Baton Rouge, LA 70808, (225) 767-7640, testified in support of House Bill No. 710.

Representative Jimmy Harris offered a motion to report House Bill No. 710 with amendments. Without objection, House Bill No. 710 was reported with amendments by a vote of 15 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue 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.

House Bill No. 939 by Representative Hoffmann

On behalf of the author, Representative Jimmy Harris offered a motion to voluntarily defer action on House Bill No. 939, which provides with respect to salaries of assistant district attorneys in the 4th JDC. Without objection, action on House Bill No. 939 was voluntarily deferred by a vote of 15 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

House Bill No. 1002 by Representative Montoucet

On behalf of the author, Representative Jimmy Harris offered a motion to voluntarily defer action on House Bill No. 1002, which authorizes certain honorably discharged active-duty military personnel to receive benefits through the La. Military Family Assistance Fund. Without objection, action on House Bill No. 1002 was voluntarily deferred by a vote of 15 yeas and 0 nays. Representatives Jackson, Adams, Bagneris, Chad Brown, Coussan, Jimmy Harris, Hazel, Hodges, Mike Johnson, Robert Johnson, Leopold, Lopinto, Magee, Jay Morris, and Zeringue voted yea.

House Bill No. 183 by Representative Hunter

(This is a continuation of the discussion on House Bill No. 183 on April 14, 2016. Please check for the prior action to complete the record of discussion and motions on House Bill No. 183.)

Representative Hunter presented House Bill No. 183, which provides for the powers and duties of the attorney general in certain officer-involved incidents. He also offered a substitute bill to House Bill No. 183 to be considered by the committee.

E. Pete Adams, executive director, Louisiana District Attorneys Association, 1645 Nicholson Dr., Baton Rouge, LA 70802, (225) 383-2227, testified in opposition to House Bill No. 183.

Representative Bagneris offered a motion to voluntarily defer action on House Bill No. 183. Without objection, action on House Bill No. 183 was voluntarily deferred by a vote of 10 yeas and

0 nays. Representatives Jackson, Adams, Bagneris, Coussan, Hazel, Mike Johnson, Robert Johnson, Leopold, Lopinto, and Zeringue voted yea.

Witness cards submitted by individuals who did not speak are as follows: 14 in opposition. 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 12:57 p.m.

Respectfully submitted,

Chairman Katrina R. Jackson
House Committee on Judiciary