

## **House Committee on Civil Law and Procedure**

Minutes of Meeting  
2020 Regular Session  
May 26, 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 8:32 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 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  
Representative Valarie Hodges

#### **STAFF MEMBERS PRESENT:**

Annie Smith, attorney  
Amy Pirtle, attorney  
Margaret "Maggie" O'Roark, committee administrative assistant

**ADDITIONAL ATTENDEES PRESENT:**

Myrtis Jarrell, sergeant at arms  
Maddie Murphy, clerk

**III. DISCUSSION OF LEGISLATION****House Resolution No. 49 by Representative Robby Carter**

Representative Robby Carter presented House Resolution No. 49, which directs the Louisiana State Law Institute to study and make recommendations relative to divorce by authentic act.

Representative Gregory Miller offered amendments to change "authorize and direct" to "urge and request" and to change the Louisiana State Law Institute's reporting requirement from January 1, 2021, to March 1, 2021. Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 10 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, DeVillier, Echols, Frieman, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, and Pressly voted yea. Representative Gregory Miller abstained.

Representative Robby Carter offered a motion to report House Resolution No. 49 with amendments. Without objection, House Resolution No. 49 was reported with amendments by a vote of 10 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, DeVillier, Echols, Frieman, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, and Pressly voted yea. Representative Gregory Miller abstained.

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

**House Resolution No. 50 by Representative Robby Carter**

Representative Robby Carter presented House Resolution No. 50, which directs the Louisiana State Law Institute to study the laws on default judgments and make recommendations for the repeal of provisions for preliminary defaults.

Representative Gregory Miller offered amendments to change "authorize and direct" to "urge and request" and to change the Louisiana State Law Institute's reporting requirement from January 1, 2021, to March 1, 2021. Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 10 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, DeVillier, Echols, Frieman, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, and Pressly voted yea. Representative Gregory Miller abstained.

Representative Robby Carter offered a motion to report House Resolution No. 50 with amendments. Without objection, House Resolution No. 50 was reported with amendments by a vote of 10 yeas, 0 nays, and 1 abstention. Representatives Robby Carter, DeVillier, Echols, Frieman, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, and Pressly voted yea. Representative Gregory Miller abstained.

### **Senate Bill No. 418 by Senator Talbot**

Senator Talbot presented Senate Bill No. 418, which enacts the Omnibus Premium Reduction Act of 2020.

Representative Seabaugh offered amendments to:

- (1) Apply the proposed \$5,000 jury trial threshold to tort actions, only, and lower the jury trial threshold for all other actions to \$35,000.
- (2) Remove from the definition of "cost sharing" amounts owed, but not paid, by the plaintiff.
- (3) Limit the time period for which the court may receive evidence of the amount of insurance premiums paid.
- (4) Allow the court to receive evidence concerning the amount the health insurer would have paid if the claimant had submitted medical bills to the insurer.
- (5) Remove the right of direct action against the insurer in cases where the insured is insolvent or service of process cannot be made on the insured.

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

Representative Seabaugh offered an amendment to provide that in a direct action against the insurer, the insured shall be the named party in the caption. Representative Seabaugh offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, DeVillier, Echols, Frieman, Jefferson, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

Representative Seabaugh offered an amendment to limit venue for direct actions brought against the insurer to the parish where the accident or injury occurred or whether an action may be brought

against the insured. Representative Seabaugh offered a motion to adopt the proposed amendment, to which Representative Robby Carter objected. The administrative assistant called the roll, and the amendment was adopted by a vote of 9 yeas, 5 nays, and 1 abstention. Representatives Amedee, DeVillier, Echols, Frieman, Mike Johnson, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representatives Robby Carter, Wilford Carter, Jefferson, Jenkins, and Landry voted nay. Representative Gregory Miller abstained.

Randy Muscarello, Jr., R and S Towing, 113 W. Urquart Street, Chalmette, LA 70043, (504) 271-1985, spoke in support of Senate Bill No. 418.

Benjamin Mouton, 340 Florida Street, Baton Rouge, LA 70801, (225) 344-3555, spoke in opposition to Senate Bill No. 418.

Gary N. Boutwell, II, Louisiana Association for Justice, 904 Main Street, Madisonville, LA 70447, (985) 969-5640, spoke in opposition to Senate Bill No. 418.

Dan Robin, Jr., Robin and Associates, 9117 W. St. Bernard Highway, Chalmette, LA 70043, (504) 905-4772, spoke in opposition to Senate Bill No. 418.

Representative Robby Carter offered amendments to remove the repeal of present law relative to direct action against a foreign insurer and to provide for prospective application. Representative Robby Carter offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 10 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, DeVillier, Frieman, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

Jerry G. Kennedy, ABATE, 6481 Bain Boulevard, Keithville, LA 71047, (318) 218-4663, spoke in opposition to Senate Bill No. 418.

John Milkovich, 11570 Timber Ridge, Keithville, LA 71047, (318) 425-1957, spoke in opposition to Senate Bill No. 418.

Representative DeVillier offered a motion to report Senate Bill No. 418 with amendments, to which Representative Jenkins objected. The administrative assistant called the roll, and Senate Bill No. 418 was reported with amendments by a vote of 10 yeas, 5 nays, and 1 abstention. Representatives Amedee, DeVillier, Echols, Emerson, Frieman, Mike Johnson, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representatives Robby Carter, Wilford Carter, Jefferson, Jenkins, and Landry voted nay. Representative Gregory Miller abstained.

Witness cards submitted by individuals who did not speak are as follows: 26 in support and 1 in opposition. 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: 21 in support and 14 in opposition.

**House Bill No. 188 by Representative Goudeau**

Representative Goudeau presented House Bill No. 188, a constitutional amendment which provides for an exception to the prohibition on political activity by members of civil service systems.

Representative Gregory Miller offered a motion to adopt the House Rule 6.8(A) Report to House Bill No. 188, 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 House Bill No. 188 was adopted by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, Echols, Frieman, Jenkins, Mike Johnson, Landry, Muscarello, Nelson, Pressly, and Seabaugh voted yea. Representative Gregory Miller abstained.

Representative Gregory Miller offered a motion to report House Bill No. 188 without amendments. Without objection, House Bill No. 188 was reported without amendments by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, Echols, Frieman, 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 for information only. Witness cards are included in the committee records.

**Senate Bill No. 489 by Senator McMath**

Senator McMath presented Senate Bill No. 489, which provides relative to limitation of liability of governmental entities which require their employees to work during a declared state of emergency.

Benjamin Mouton, Louisiana Association for Justice, 340 Florida Street, Baton Rouge, LA 70801, spoke in opposition to Senate Bill No. 489.

Representative Robby Carter offered amendments to provide relative to application of proposed law to workers' compensation claims. Representative Robby Carter offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 11 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, Echols, Frieman, Jefferson, Jenkins, Mike Johnson, Muscarello, Nelson, and Pressly voted yea. Representative Gregory Miller abstained.

Representative Muscarello offered a motion to report Senate Bill No. 489 with amendments. Without objection, Senate Bill No. 489 was reported with amendments by a vote of 11 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, Echols, Frieman,

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

Witness cards submitted by individuals who did not speak are as follows: 5 in support and 2 in opposition. 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 opposition. Copies of these statements are included in the committee records.

### **Senate Bill No. 508 by Senator McMath**

Senator McMath presented Senate Bill No. 508, which limits liability for restaurants that provide food-to-go during the COVID-19 public health emergency.

Benjamin Mouton, Louisiana Association for Justice, 340 Florida Street, Baton Rouge, LA 70801, spoke in opposition to Senate Bill No. 508.

Representative Gregory Miller offered a motion to report Senate Bill No. 508 favorably. Without objection, Senate Bill No. 508 was reported favorably by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Echols, Frieman, 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: 7 in support and 2 in opposition. 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: 2 in opposition. Copies of these statements are included in the committee records.

### **Senate Bill No. 472 by Senator Luneau**

Senator Luneau presented Senate Bill No. 472, which provides for the execution of electronic notarial acts.

Amanda Baker, Louisiana Secretary of State, 8585 Archives Avenue, Baton Rouge, LA 70809, (225) 925-4704, spoke for information only on Senate Bill No. 472.

Representative Gregory Miller offered an amendment to provide for an effective date of February 1, 2022. Representative Gregory Miller offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, Echols, Emerson, Frieman, Jefferson,

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

Nick Kunkel, Louisiana State Law Institute, LSU Paul M. Hebert Law Center, Baton Rouge, LA, (225) 578-0209, spoke for information only on Senate Bill No. 472.

Representative Robby Carter offered a motion to report Senate Bill No. 472 with amendments. Without objection, Senate Bill No. 472 was reported with amendments by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Wilford Carter, Echols, Emerson, Frieman, 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.

#### **Senate Concurrent Resolution No. 57 by Senator Hewitt**

On behalf of Senator Hewitt, Representative Gregory Miller presented Senate Concurrent Resolution No. 57, which requests the Louisiana Supreme Court and the Louisiana State Bar Association to implement a lawyer advertisement review recognition program.

There was no further discussion on Senate Concurrent Resolution No. 57.

Representative Pressly offered a motion to report Senate Concurrent Resolution No. 57 favorably. Without objection, Senate Concurrent Resolution No. 57 was reported favorably by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Amedee, Wilford Carter, Echols, Emerson, Frieman, 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: 3 in support. Witness cards are included in the committee records.

#### **Senate Bill No. 491 by Senator Hewitt**

On behalf of Senator Hewitt, Representative Gregory Miller presented Senate Bill No. 491, which limits liability of persons who provide relief or recovery equipment or services during a declared state emergency.

There was no further discussion on Senate Bill No. 491.

Representative Pressly offered a motion to report Senate Bill No. 491 favorably. Without objection, Senate Bill No. 491 was reported favorably by a vote of 13 yeas, 0 nays, and 1 abstention.

Representatives Amedee, Wilford Carter, Echols, Emerson, Frieman, 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: 6 in support and 2 in opposition. 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 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 12:57 p.m.

Respectfully submitted,

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