

LOUISIANA STATE BAR ASSOCIATION
HOUSE OF DELEGATES
8:30 A.M. ♦ SATURDAY, JANUARY 23, 2010
NEW ORLEANS MARRIOTT AT THE CONVENTION CENTER

MINUTES

The House of Delegates was convened at 8:42 a.m. on Saturday, January 23, 2010, in the Blaine Kern Ballroom of the New Orleans Marriott at the Convention Center in New Orleans, Louisiana.

I. Certification of Quorum by the Secretary

After concurring with Secretary Carrick B. Inabnett, Ms. Boyle announced that a quorum had been certified and declared the meeting to be in session. A copy of the attendance roster is attached as an addendum to these Minutes.

II. Recognition of Deceased Members of the House of Delegates.

The House observed a moment of silence in memory of Donald R. Miller of the 1st Judicial District.

III. Reports of Standing Committees of the House

No oral reports were given; all reports that were in writing were submitted.

IV. Reports of Officers, Board of Governors, Standing Committees and Sections of the Louisiana State Bar Association

No oral reports were given; all reports that were in writing were submitted.

Leslie J. Schiff was presented with the LSBA Committee on the Profession 2010 Professionalism Award.

V. Reports of Special Committees of the Louisiana State Bar Association

There were no reports either written or oral.

VI. Old Business

There was no Old Business to be considered.

VII. Approval of Minutes

Consideration of Approval of the Minutes of the June 12, 2009 Meeting of the House of Delegates.

Ms. Boyle noted a typographical error in the date in the header of the minutes.

The following motion was made:

“BE IT RESOLVED, that the minutes of the June 12, 2009 meeting of the House of Delegates are approved as amended.”

The motion was seconded and unanimously approved.

VIII. Elections

1. Election from the 20th through 42nd Judicial Districts of a chairperson and two (2) members of the House of Delegates to the Liaison Committee of the House for 2010/2011. The chairperson will serve a one-year term (June 2010 through June 2011) as an ex-officio member of the Board of Governors and shall have the same rights and privileges of all other members of the Board, including the right to vote.

Ms. Boyle opened the floor for nomination for a chairperson and two members of the House of Delegates to the Liaison Committee of the House.

The following motion was made by Michael R. Delesdernier:

“BE IT RESOLVED that Robert A. Kutcher of the 24th Judicial District be elected as chair of the Liaison Committee of the House.”

The motion was seconded. Nominations were closed and Mr. Kutcher was declared elected as chair of the Liaison Committee of the House of Delegates.

The following motion was made by David L. Colvin:

“BE IT RESOLVED that George B. Recile of the 24th Judicial District be elected a member of the Liaison Committee of the House.”

The motion was seconded. Nominations were closed and Mr. Recile was declared elected a member of the Liaison Committee of the House of Delegates.

The following motion was made by Mary H. Holmes:

“BE IT RESOLVED that Michael B. Holmes of the 33rd Judicial District be elected a member of the Liaison Committee of the House.”

The motion was seconded. Nominations were closed and Mr. Holmes was declared elected a member of the Liaison Committee of the House of Delegates.

IX. Resolutions

Committee Resolutions

1. Resolution from the Legislation Committee proposing that a full civics credit replace the current one-half civics credit and one-half free enterprise credit required to graduate from high school in Louisiana, while incorporating free enterprise concepts into the expanded civics curriculum.

After brief introductory remarks, Michael A. Patterson amended the resolution so that the second whereas reads, in its entirety, as follows, "WHEREAS, the teaching of civics is marginalized in this country;" and then made the following motion:

"BE IT RESOLVED that that the resolution from the Legislation Committee proposing that a full civics credit replace the current one-half civics credit and one-half free enterprise credit required to graduate from high school in Louisiana, while incorporating free enterprise concepts into the expanded civics curriculum be adopted as amended."

After a number of members spoke both for and against the resolution, the question was called and the motion was adopted as amended.

2. Resolution from the Legislation Committee strongly urging that a comprehensive statewide study be conducted to review court costs in Louisiana and their impact on access to justice.

The following motion was made by Michael A. Patterson:

"BE IT RESOLVED, that the resolution from the Legislation Committee strongly urging that a comprehensive statewide study be conducted to review court costs in Louisiana and their impact on access to justice be adopted."

The motion was seconded and adopted unanimously.

3. Resolution from the Legislation Committee proposing that the LSBA oppose the imposition and requirement of mandatory minimum sentences for non-violent offenses, and support allowing elected judges and district attorneys to exercise their judgment in sentencing under the law based upon the unique facts of each individual case.

The following motion was made by Michael A. Patterson:

"BE IT RESOLVED, that the resolution from the Legislation Committee proposing that the LSBA oppose the imposition and requirement of mandatory minimum sentences for non-violent offenses, and support allowing elected judges and district attorneys to exercise their judgment in sentencing under the law based upon the unique facts of each individual case be adopted."

The motion was seconded and adopted.

4. Resolution from the Legislation Committee proposing that the LSBA oppose the creation of special rules favoring subclasses of parties in certain types of cases in contravention of the Civil Code and Code of Civil Procedure, unless a clear case is made for these rules to produce a just result which could not be produced under the general codes.

The following motion was made by Michael A. Patterson:

“BE IT RESOLVED, that the resolution from the Legislation Committee proposing that the LSBA oppose the creation of special rules favoring subclasses of parties in certain types of cases in contravention of the Civil Code and Code of Civil Procedure, unless a clear case is made for these rules to produce a just result which could not be produced under the general codes be adopted.”

The motion was seconded and adopted.

5. Resolution from the Legislation Committee proposing that the LSBA generally oppose granting of civil immunities, except in cases where: the public policy sought to be favored is sufficiently important, the behavior sought to be encouraged is directly related to the policy, and the immunity is drawn as narrowly as possible to effect its purpose.

The following motion was made by Michael A. Patterson:

“BE IT RESOLVED, that the resolution from the Legislation Committee proposing that the LSBA generally oppose granting of civil immunities, except in cases where: the public policy sought to be favored is sufficiently important, the behavior sought to be encouraged is directly related to the policy, and the immunity is drawn as narrowly as possible to effect its purpose be adopted.”

The motion was seconded and adopted.

6. Resolution from the Bar Governance Committee proposing that the LSBA recommend to the Supreme Court amendment to the Supreme Court Rules XVII (governing admission to the Bar) and XIX (governing lawyer disciplinary enforcement) to allow for granting, under certain circumstances, certificates for limited practice as Registered Military Legal Assistance Attorneys, and that if approved by the Court, subsequent implementation of corresponding amendments to the LSBA governing documents.

The following motion was made by S. Guy deLaup:

“BE IT RESOLVED, that the resolution from the Bar Governance Committee proposing that the LSBA recommend to the Supreme Court amendment to the Supreme Court Rules XVII (governing admission to the Bar) and XIX (governing lawyer disciplinary enforcement) to allow for granting, under certain circumstances, certificates for limited practice as Registered Military Legal Assistance Attorneys, and that if approved by the Court, subsequent implementation of corresponding amendments to the LSBA governing documents be adopted.”

Ms. Boyle called upon Lt. Cmdr. Christopher D. Mora, a member of the Military Law Committee, to explain the reasons for the proposed amendment.

The question was called and the motion was adopted.

7. Resolution from the Lawyers in Transition Committee proposing to amend the Rules of Professional Conduct to allow for the appointment of “successor attorneys” to facilitate the transition of a lawyer’s clients to another lawyer should the original lawyer become deceased, disabled, missing for any reason, or is subject to discipline which prohibits him/her from engaging in the practice of law.

The following motion was made by Edward J. Walters, Jr., chair of the Lawyers in Transition Committee:

“BE IT RESOLVED, that the resolution from Lawyers in Transition Committee proposing to amend the Rules of Professional Conduct to allow for the appointment of “successor attorneys” to facilitate the transition of a lawyer’s clients to another lawyer should the original lawyer become deceased, disabled, missing for any reason, or is subject to discipline which prohibits him/her from engaging in the practice of law be adopted.”

A considerable number of members spoke both for and against the resolution.

Ms. Boyle called upon Jeffery A. Riggs who moved to table the resolution so that it may be further developed by the Lawyers in Transition Committee.”

The motion to table was seconded and adopted.

8. Resolution from the Right to Counsel Committee proposing, in accordance with the committee’s recent study, support of reclassification of selected non-violent misdemeanor and municipal ordinances that do not impact public safety into petty offenses, carrying fine-only sentences to which the right to counsel does not attach.

The following motion was made by Jean M. Faria:

“BE IT RESOLVED, that the resolution from the Right to Counsel Committee proposing, in accordance with the committee’s recent study, support of

reclassification of selected non-violent misdemeanor and municipal ordinances that do not impact public safety into petty offenses, carrying fine-only sentences to which the right to counsel does not attach be adopted.”

The motion was seconded and adopted.

9. Resolution from the Right to Counsel Committee proposing support of the continued funding of all components of the criminal justice system and proposing opposition to any reduction in revenue to these stakeholders as a result of the reclassification of offenses.

The following motion was made by Jean M. Faria:

“BE IT RESOLVED, that the resolution from the Right to Counsel Committee proposing support of the continued funding of all components of the criminal justice system and proposing opposition to any reduction in revenue to these stakeholders as a result of the reclassification of offenses be adopted.”

The motion was seconded and adopted.

10. Resolution from the Committee on Diversity proposing increasing of the size of the committee.

The following motion was made by Wayne J. Lee:

“BE IT RESOLVED, that the resolution from the Committee on Diversity proposing increasing of the size of the committee be adopted.”

The motion was seconded and adopted.

11. Resolution from the Committee on Diversity proposing to amend the committee’s mission statement as set forth in the Bylaws to be consistent with the diversity statement as adopted by the House of Delegates in January 2008.

The following motion was made by Wayne J. Lee:

“BE IT RESOLVED, that the resolution from the Committee on Diversity proposing to amend the committee’s mission statement as set forth in the Bylaws to be consistent with the diversity statement as adopted by the House of Delegates in January 2008 be adopted.”

The motion was seconded and adopted.

Member Resolution

12. Resolution from Fernin F. Eaton proposing that the LSBA request the assistance of the Louisiana First Circuit Court of Appeal, the State Civil Service Commission, the Louisiana Supreme Court, and the state's law schools to either participate in or contribute assistance to a study group to issue reports as follows:

- Civil Service Commission – The names of attorneys before it, and its referees, whether for employee or employer, and the frequency of appearance as well as disposition of the cases, for the past four fiscal years;
- Court of Appeal and Louisiana Supreme Court – Any similar information which could be made available to the study group; and
- The law schools – Any information which reflects training and educating their graduates to accept or not accept employment cases which have a 30-day preemptive period, and information regarding testing of this issue on the bar exam.

The following motion was made by Steven G. Durio:

“BE IT RESOLVED, that the resolution from Fernin F. Eaton proposing that the LSBA request the assistance of the Louisiana First Circuit Court of Appeal, the State Civil Service Commission, the Louisiana Supreme Court, and the state's law schools to either participate in or contribute assistance to a study group to issue reports as indicated be adopted.”

Ms. Boyle called upon Fernin F. Eaton, a Bar member, to explain the reasons for the proposed study group and reports.

Ms. Boyle called upon Dominick Scandurro, Jr. of the 25th Judicial District to speak in opposition of the resolution.

Mr. Durio waived his right to close. Upon a hand-count vote, the motion failed with 68 members in favor and 92 opposed.

13. Resolution from the Louisiana Board of Legal Specialization proposing that the House of Delegates recommend to the Louisiana Supreme Court the creation of Real Estate Law as a new legal specialty area.

The following motion was made by J. Zachary Blanchard, Jr.:

“BE IT RESOLVED, that the resolution from the Louisiana Board of Legal Specialization proposing that the House of Delegates recommend to the Louisiana Supreme Court the creation of Real Estate Law as a new legal specialty area be adopted as amended.”

Ms. Boyle called upon David M. Touchstone, a proxy for the 26th Judicial District, to explain the reasons for the proposed specialty.

A number of members spoke both for and against the resolution. Ms. Boyle called upon Val P. Exnicios who moved to call the question.

Robert L. Bussey moved to table the resolution, however Ms. Boyle ruled his motion out of order.

The question was called. A hand-count vote was begun, but Ms. Boyle saw a clear “nay” vote and ruled that the motion had failed.

X. Other Business

Consideration of any other business to come before the House of Delegates.

14. Resolution from the Joint Right to Counsel and Access to Justice Language Access Subcommittee proposing the support of Language Access Guidelines for Louisiana courts, which guidelines are designed to guarantee competent interpretation of court proceedings and ensure compliance with federal civil rights law.

The following motion was made by Raymond S. Steib, Jr.:

“BE IT RESOLVED, that the House of Delegates consent to suspend its rules of order to allow discussion of a resolution not on the agenda.”

The motion was seconded and adopted.

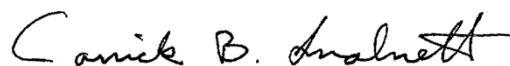
The following motion was made by Raymond S. Steib, Jr.:

“BE IT RESOLVED, that the resolution from the Joint Right to Counsel and Access to Justice Language Access Subcommittee proposing the support of Language Access Guidelines for Louisiana courts, which guidelines are designed to guarantee competent interpretation of court proceedings and ensure compliance with federal civil rights law be adopted.”

The motion was seconded and adopted.

There being no further business, the meeting was adjourned at 10:46 a.m.

Respectfully submitted:



Carrick B. Inabnett
Secretary

House of Delegates Minutes
January 23, 2010
Page 9

APPROVED BY HOUSE OF DELEGATES
June 11, 2010
Destin, Florida