

2009 Senate Special Judiciary Committee Members

Senator John Wiles, 37th, Chairman
18 Capitol Square
CLOB Room 324
Atlanta, GA 30334
404-657-0406

Senator Ed Tarver, 22nd
18 Capitol Square
CLOB Room 313
Atlanta, GA 30334
404-656-0340

Senator David Adelman, 42nd, Vice Chairman
121 State Capitol
Atlanta, GA 30334
404-463-1376

Senator Curt Thompson, 5th, Ex-Officio
18 Capitol Square
CLOB Room 323
Atlanta, GA
404-463-1318

Senator Judson Hill, 32nd, Secretary
18 Capitol Square
CLOB Room 325
Atlanta, GA 30334
404-656-0150

Senator Dan Weber, 40th
18 Capitol Square
CLOB Room 301
Atlanta, GA 30334
404-463-2260

Senator Bill Cowsert, 46th
109 State Capitol
Atlanta, GA 30334
404-651-7738

Senator Chip Pearson, 51st, Ex-Officio
18 Capitol Square
CLOB Room 321 B
Atlanta, GA 30334

Senator Seth Harp, 29th
121 State Capitol
Atlanta, GA 30334
404-463-3931

Senator Ronald Ramsey, Sr, 43rd
18 Capitol Square
CLOB Room 320
Atlanta, GA 30334
404-463-2598

Senator Kasim Reed, 35th
420 State Capitol
Atlanta, GA 30334
404-463-1379

Senate Special Judiciary Committee Rules 2009 Session

Introduction:

Each member of the Committee should be mindful of the Senate Rules especially regarding attendance.

1. A Quorum of the Committee shall be 5 members.
2. The Chairman shall determine which bills and resolutions are to be considered and the order in which said measures are considered.
3. The Chairman shall have the authority to refer bills and resolutions to subcommittees for study. Such subcommittees in turn shall have the authority to make recommendations on such measures to the full Committee at such time as shall be designated by the Chairman.
4. The Committee shall convene, recess, and adjourn upon the order of the Chairman.
5. A bill or resolution will be considered only after presentation by its principal author or other legislator whose name appears first or second on the list of authors or co-sponsors, unless the author or co-sponsor has made other arrangements with the Chairman.
6. No member of the Committee shall be allowed to vote by proxy.
7. Members may not abstain from voting unless the member or any member of the Senator's immediate family has a direct pecuniary interest in the result of such vote which interest is distinct, unique or peculiar to the Senator or the Senator's immediate family.
8. Any member or members of the Committee who disagree with the majority report of the Committee shall be privileged to file a minority report if they so desire.
9. These rules may be amended upon a motion duly made and subsequently approved by two-thirds of the members of the Committee.
10. Where these rules are silent on a specific issue, the Rules of the Senate as adopted shall govern.

The Senate Special Judiciary Committee met in Room 307 of the Coverdell Legislative Office Building (CLOB) on January 26, 2009 at 3:00 p.m.

The following members were present:

Wiles, 37th, Chairman
Hill, 32nd, Secretary
Cowsert, 46th
Harp, 29th
Tarver, 22nd
Thompson, 5th, Ex-Officio
Weber, 40th

Chairman Wiles called the meeting to order at 3:20 p.m. and welcomed everyone to the 2009 Senate Special Judiciary Committee. The Chairman introduced his staff to the audience:

Kathleen Cominski, Chairman's secretary
Chris Mills, Attorney, Senate Special Judiciary Committee
Taryn Kirbo, Senate Research
Bynum Jeager, Chairman's aide
Shawn Marie, Legislative Counsel
Lori Hale, Press Office

The Rules were read and the Chairman noted that the only change in this year's rules reflect the change in the Senate Rules. Any member shall verbally express to the Chairman and the committee his reason for excusing himself from a vote.

With there being no further business, Chairman Wiles adjourned the meeting at 3:30 p.m.

Respectfully Submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Judson Hill, 32nd, Secretary

The Senate Special Judiciary Committee met on February 3, 2009 at 3:00 p.m. in room 310 Coverdell Legislative Office Building (CLOB).

The following members were present:

Wiles, 37th, Chairman
Adelman, 42nd, Vice-Chairman
Cowsert, 46th
Ramsey, Sr., 43rd
Tarver, 22nd
Thompson, 5th, Ex-Officio
Weber, 40th

The Chairman called the meeting to order at 3:10 p.m.

SB 46 (Adelman of the 42nd): Correcting typographical errors: Repealing obsolete provisions.

Senator Adelman, 42nd explained this bill amends many grammatical, typographical and stylistic corrections to statutes throughout the Georgia Code. Cowsert, 46th made a motion Do Pass, seconded by Ramsey, Sr., 43rd. The vote was unanimous. **SB 46 Do pass.**

SB 47 (Adelman of the 42nd): Correcting typographical errors; Title 21.

Senator Adelman, 42nd said this bill corrects the following:

Code Section 21-2-381 (a) (4) is amended to replace “registar” with “registrar”
Code Section 21-5-70 (5) (G) is amended to replace “vender” with “vendor” both times it appears. Ramsey, Sr., 43rd made a motion Do Pass, seconded by Cowsert, 46th. The vote was unanimous. **SB 47 Do Pass.**

SB 48 (Adelman of the 42nd): Correcting typographical errors; Title 47.

Senator Adelman, 42nd stated to the committee that this bill corrects several typographical and stylistic errors in Title 47:

- 1) Code Section 47-1-20: Replace “public related” with “public employment related,” and replace “an employment related” with “a public employment related.”
- 2) 47-1-25: Replace “an employment related” with “a public employment related,” and replace “the employment related” with “the public employment related.”
- 3) 47-2-355: Replace “who become disabled” with “who becomes disabled.”
- 4) 47-3-127.1: Replace “or counselor and such person” with “or counselor, and such person,” and replace “improvement specialist” with “improvement specialist,”

- 5) 47-5-2: Replace “Regional development centers created” with “Regional commissions created.”
- 6) 47-17-1: Replace “Department of Motor Vehicle Safety” with “Department of Driver Services,” and replace “commissioner of motor vehicle safety” with “commissioner of driver services.”
- 7) 47-20-83(a) (1): Replace the period with a semi-colon at the end.

Thompson, 5th made a motion Do pass, seconded by Weber, 40th. The vote was unanimous. **SB 48 Do Pass.**

SR 50 (Jackson of the 24th): A Resolution to create the Georgia Criminal Justice Study Commission.

Senator Jackson, 24th stated he would like to see a commission created to oversee the department of Juvenile.

Senator Adelman, 42nd asked the Senator if he had a specific area within the Criminal Justice System that he would like to focus on. The criminal justice system is too large to just oversee the entire system; it should be broken into sections.

Senator Jackson, 24th stated he just thinks the criminal justice system needs to have a commission to oversee its daily duties. There was not just one specific issue.

Senator Adelman, 42nd suggested Senator Jackson, 24th narrow the scope a little bit. The way the resolution is written it is too broad.

Chairman Wiles said we would hold SR 50 for future debate to determine which specific study would enhance the duties of the Criminal Justice System.

With there being no further business, Chairman Wiles adjourned the meeting at 3:45 p.m.

Respectfully Submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator John Wiles, 37th, Chairman

The Senate Special Judiciary Committee met in Room 310 of the Coverdell Legislative Office Building (CLOB) on February 10, 2009 at 3:00 p.m.

The following members were present:

Wiles, 37th, Chairman
Adelman, 42nd, Vice-Chairman
Cowsert, 46th
Harp, 29th
Reed, 35th
Thompson, 5th, Ex-Officio

Chairman Wiles called the meeting to order at 3:10 p.m. The Chairman called the first bill on the agenda.

SB 97 (Grant of the 25th): Changing References to State Personnel Administration

Senator Grant, 25th stated this bill changes the designation of the “State Merit System of Personnel Administration” wherever it appears throughout the Code, except in Title 47.

There were no questions or objections to the bill. Harp, 29th made a motion “Do pass”, seconded by Adelman, 42nd. The vote was unanimous. **SB 97 Do pass.**

SB 98 (Grant of the 25th): Changing References to State Personnel Administration

Senator Grant, 25th stated this bill replaces the term “State Merit System of Personnel Administration” with “State Personnel Administration” wherever it appears.

Harp, 29th made the motion “Do pass”, seconded by Reed, 35th. The vote was unanimous. **SB 98 Do Pass.**

The Chairman called Senator Harp, 29th to present SB 41 which is a “Hearing only” bill.

SB 41 (Harp of the 29th): Attorneys; advertise on television in the State of Georgia

Senator Harp, 29th stated he recognizes that the attorney-client relationship is sacrosanct and that the client is entitled to faithful and zealous counsel, as well as the right of attorneys to advertise their services on television under current law. However, this new statute will require the following of any attorney television advertisement in Georgia: the face and voice in the ad must be of a licensed attorney; the ad must visually and audibly state whether the advertising attorney is licensed to practice in Georgia; the ad must visually and audibly state the name, city, county, and state of the attorney’s principal residence; any disclaimers required by Georgia must be stated in the ad; and the type size of required visual displays must be no smaller than 1/5 of the television screen.

Senator Harp, 29th stated he would like to pass this legislation and let the Attorney General review the constitutionality of it.

Chairman Wiles stated that in the Supreme Court Case Wallace vs Wallace the Justices ruled it was unconstitutional to regulate practice of law.

Harp, 29th stated there are two ways to change the Constitution: (1) enact legislation, or (2) let courts reverse decision.

Adelman, 42nd spoke against the bill.

Tom Boller, Georgia Bar Association, stated the Bar is not taking a position on the bill at this time.

The Chairman stated to Senator Harp, 29th that he and other committee members had some concerns about some technical issues as well as Constitutional concerns. He stated the committee will discuss this bill at a later date.

With there being no further business, Chairman Wiles adjourned the meeting at 3:35 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator John Wiles, 37th, Chairman

The Senate Special Judiciary Committee met on February 24, 2009 at 3:00 p.m. in Room 120 of the Capitol. Members present were:

Wiles, 37th, Chairman
Cowsert, 46th
Harp, 29th
Ramsey, Sr., 43rd
Tarver, 22nd
Pearson, 51st, Ex-Officio
Reed, 35th
Weber, 40th

The Chairman introduced the newest member to the Committee, Senator Chip Pearson of the 51st district.

SB 115 (Wiles of the 37th): Presenting a Valid Drivers' License in Court after a driving offense.

Chairman Wiles asked Chuck Saphos, Henry County Solicitor's Office, to speak to the bill. Mr. Saphos stated Code Section 40-5-20 requires that only persons with valid drivers' licenses for the class of vehicle driven may operate a motor vehicle on Georgia highways. Under this bill, if a person is cited for violation of this law based on his/her drivers' license having expired without renewing it, the charge will be dismissed if the person presents a currently valid license at the court hearing. Also, a person who is licensed in another state, but not in Georgia, for the class of vehicle being driven at the time of the citation will have the charge dismissed if such person presents a currently valid Georgia license for that class of vehicle at the court hearing.

Senator Cowsert, 46th stated that there are many technical ways an individual can lose their license and not be aware, such as not renewing their car insurance, not paying child support, etc... This bill does not allow for any provisions. The statute requires "on notice your license has been suspended", who proves the notice was sent, and who proves if they receive notice.

Mr. Saphos said he had no problem adding language that would address Senator Cowsert's concerns.

Senator Ramsey, Sr., 43rd said he would like to hold the bill and work on the language; it is vague written in the current form.

Senator Cowsert, 46th also stated that he could not support this bill. It leaves no exception for first time offense, line 53, page 2.

Weber, 40th made a motion “do pass,” seconded by Ramsey, Sr., 43rd. The vote was 4 yeas: Harp of the 29th, Ramsey, Sr. of the 43rd, Weber of the 40th, and Pearson of the 51st; 3 nays: Reed of the 35th, Tarver of the 22nd and Cowsert of the 46th. **SB 115 Do Pass.**

HB 117 (Keen of the 179th): Changing Code references to certain Senate and House committees.

Sewell Brumby, Director of Legislative Counsel, spoke on behalf of HB 117 stating this bill changes references throughout the Code to reflect the current and correct names of several Senate and House committees.

Reed, 35th made the motion “Do Pass,” seconded by Harp, 29th. The vote was unanimous. **HB 117 Do Pass.**

SB 151 (Wiles of the 37th): Crime Victim Testimony Admissible as Evidence

Senator Wiles, 37th stated this bill amends the statute relating to oral victim impact statements by requiring the judge to allow evidence from a crime victim, a victim’s family or other such witness, rather than relying on the judge’s discretion. However, the evidence may not be admissible if it unduly prejudices the jury or burdens a witness. Such evidence may take many forms, including, but not limited to written, audio taped or videotaped statements, teleconferences; speakerphone statements if the speaker’s identity is verified by an attorney, and statements by other electronic means. Photographs of the victim may be included.

Code Section 42-9-43, relating to the Board of Pardons and Paroles (“Board”), is amended to change all references of “person” to “inmate”. The bill also requires the Board to consider the written, oral, audio taped or videotaped testimony of a victim, victim’s family or other such disclosed to the inmate, unless otherwise classified as confidential. The inmate must be allowed to rebut the evidence and present evidence on his/her behalf. Finally, the Board will be required to send written notice of parole hearings to the victim or victim’s family.

Dave McDade, Douglas County District Attorney, spoke in favor of the bill stating it would make the system less painful for the victim and the victim’s family.

The following victims spoke before the committee:

Kelly Wiggins: her sister was murdered
Claudia Barnes: Judge Roland Barnes’ widow
Wayne Brown: Daughter murdered

All of the above victims spoke in favor of this legislation, stating this type of statement would have made the whole process easier on them.

Senator Hill, 32nd arrived at 3:25 p.m.

Dr. Cook, Victim Advocacy Group, spoke to the committee stating that currently victims are not allowed to make statements to the courts; statements have to be prepared and scripted and approved before read to the court. This makes the victims feel that they were the guilty ones. It is very difficult for someone who has lost a loved one to structure a prepared statement to read before the courts. This bill would offer relief to victims' families.

Danny Porter, Gwinnett County District Attorney, spoke in favor of the bill.

Bob Keller, Ga. Pardons and Paroles, asked the committee to add the following: "The inmate shall be permitted to rebut the evidence presented pursuant to this paragraph and to present evidence on his or her own behalf." after the word "inmate" on line 64. This gives the inmate a chance to rebut.

Senator Hill, 32nd made the motion "do pass" on the amendment offered by Mr. Keller. Motion seconded by Senator Harp, 29th. The vote was unanimous.

Bob Keller also asked the committee for clarification to add "as to allow for cross examination by defendant" after the word "manner" on page 2, line 31.

Senator Hill, 32nd made the motion "do pass" on the amendment offered by Mr. Keller, seconded by Senator Ramsey, Sr. 43rd. The vote was unanimous.

The Chairman asked for a vote on SB 151 by substitute. Cowsert, 46th made the motion "Do Pass by Substitute", seconded by Ramsey, Sr., 43rd. The vote was unanimous. **SB 151 Do Pass by Substitute.**

With there being no further business, the Chairman adjourned the meeting at 4:35 p.m.

Respectfully Submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Judson Hill, 32nd, Secretary

The Senate Special Judiciary Committee met on March 3, 2009 at 5:00 p.m. in the Senate Mezzanine. Members present:

Wiles, 37th, Chairman
Hill, 32nd, Secretary
Harp, 29th
Cowsert, 46th
Pearson, 51st, Ex-Officio
Ramsey, Sr., 43rd
Reed, 35th
Tarver, 22nd
Thompson, 5th, Ex-Officio
Weber, 40th

The Chairman called the meeting to order at 5:05 p.m.

SB 108, Substitute (Cowsert of the 46th): Recovery of Attorney's Fees upon a Motion to Dismiss.

Senator Cowsert presented the bill stating this bill creates a new Code Section to require that a party whose claim is dismissed for failure to state a claim for which relief can be granted, pay reasonable attorney's fees and costs to the prevailing party unless the court determines: that the party bringing the dismissed claim acted with due diligence; the claim exhibited substantial merit of represented a good faith effort to establish a new theory of law in Georgia; or the award of attorney's fees would create substantial injustice.

Senate Bill 108 (SB 108) is the governor's bill, and it passed by a committee substitute in a less potent form; the loser pay provision was removed. Essentially, this bill stays discovery proceedings if a motion to dismiss is filed before or at the time of filing an answer. However, upon a showing of good cause, a court may grant a motion for expedited discovery while the motion to dismiss is pending.

Ken Shipley, Georgia State Bar, stated the Ga. Bar Association has no position on the bill.

Bill Clark, Georgia Trial Lawyers Association (GTLA), thanked everyone for listening to its concerns. GTLA had no objection to SB 108 substitute.

Tarver, 22nd made a motion "do pass by substitute", seconded by Ramsey, Sr., 43rd. The vote was unanimous. **SB 108 do pass by substitute.**

SB 213 (Wiles of the 37th): Torts; Industry-wide Liability Claims

Chairman Wiles asked Joel Williams and Robert Lystad, with Bryan Cave Powell Goldstein, to explain the bill to the committee. Senate Bill 213 (SB 213) is a bill that clarifies current Georgia law. It provides that manufacturers shall not be held liable for

the manufacture of a product under market share or enterprise liability theories. Further, the manufacturers will not be held liable for public nuisance under the aforementioned theories. They testified that this bill requires that a plaintiff must prove that the company manufactured the product in order to hold that particular company liable.

Hill, 32nd made the motion Do Pass, seconded by Harp, 29th. The vote was unanimous. **SB 213 Do Pass.**

SB 127 (Wiles of the 37th): Late Fees for Failure to pay Over Funds to Georgia Superior Court Clerks' Cooperative Authority, (GSCCCA).

Chairman Wiles presented Senate Bill 127 (SB 127) stating this is a bill that adds a penalty and late fees for failure of the clerk to remit money that is collected from parties to the Georgia Super Court Clerks' Cooperative. This bill passed the Senate last year, but failed to pass in the House. Harp, 29th made the motion "do pass", seconded by Ramsey, Sr., 43rd. The vote was unanimous. **SB 127 Do Pass.**

SB 199 (Wiles of the 37th): No Annual Training Required in 2009 for Probate and Magistrate Judges.

Senator Wiles, 37th explained to the committee that this bill gives the magistrate and probate judges the discretion to attend training in the 2009-2010 calendar years. The probate and magistrate judges are the only two groups of judges that the General Assembly can adjust the training requirements for. Due to the current budget shortfall, there may not be adequate funds to pay for the required training in 2009. Therefore, SB 199 gives judges who have been on the bench for a period of time the option not to complete training. Judge Willis Brown, Rockdale County, opposes the bill because the probate judges have already signed contracts for training this year. She wants to continue training because "if they don't spend the money this year it might not be appropriated to them next year." In addition to her concerns about breaching the training contract, she thinks that the training of judges is very important. Senator Wiles, 37th addressed Judge Brown's concerns by stating, under SB 199, if budget money is available the judges can complete the training, but if there is no budget money available, the judges do not have to complete the training requirement. Judge Hutchinson, Chief Magistrate Judge of Gwinnett County, was also concerned about pre-arranged training. Judge Braswell, Morgan County Probate Judge, stated: "Judge training is not the place to cut." Senator Wiles, 37th responded by saying, constitutionally, the General Assembly can't reduce these classifications of judges' salaries; therefore, we have to make cuts in other areas. Last year, the State of Georgia spent one million dollars on judge training. Senator Harp, 29th recommended that the date of this bill be extended to 2009-2010. The committee agreed on changing the date to 2009-2010. Senator Harp, 29th made the motion "do pass by substitute", seconded by Tarver, 22nd. The vote was 6 yeas, 2 nays. The two dissenting votes were Thompson of the 5th, and Ramsey, Sr. of the 43rd. **SB 199 Do pass by substitute.**

SB 207 (Wiles of the 37th): Admittance of General Public in Juvenile Court Hearings.

Senator Wiles, 37th explained the bill to the committee stating SB 207 admits the public into certain hearings and proceedings in juvenile court. The general public will be excluded from hearings involving adoption and delinquency proceedings. Further, the court may temporarily exclude any child from a termination of parental rights hearing. If the court closes the proceedings due to “exceptional circumstances,” the judge must make a finding on the record. The court may close the hearing or proceeding if the court finds that the case involves a sexual offense, or it would be in the best interest of the child to have a closed proceeding. Alice McQuade, with Better Courts for Kids, spoke in favor of the bill. She stated SB 207 would address the problem of foster parents not being able to track their foster children in judicial proceedings. Currently, foster parents are not privy to the proceedings. She also informed the committee, 21 states currently have a mechanism in place similar to SB 207 to provide for transparent, open courts. Joy Cramer, with Common Cause, also spoke in favor of SB 207. She stated that this bill would help provide for open courts and open records. This bill was amended by committee substitute to be more inclusive on what particular child advocates could gain access to court proceedings.

In addition to the aforementioned child advocates, a foster parent gave an account of her foster child’s tragic story. Ms. Sharon Franklin told the story of how her foster child was returned back to the birth mother, and only a couple of weeks later the child was admitted to the hospital with a broken arm and head injuries from a severe beating. The physician’s prognosis was that the child would remain in a permanent vegetative state. Ms. Franklin felt like she was locked out of the judicial proceedings and could not protect the interest of her foster child.

Wayne Drummond, ex-director of City Welfare, was against the bill. Further, the child public defender’s office wanted to delete the portion of the bill relating to child delinquency. The committee made a substitute regarding the delinquency proceedings provision in SB 207, and it was accepted by the committee. Tom Rials, Office of Child Welfare, said that he would assist with tweaking the committee substitute and provide any information he could to get SB 207 a favorable reception on the Senate floor. Senator Tarver, 22nd voiced his concerns about the hasty fashion the bill proceeded through the committee, and that there were too many changes made to the bill. Senator Harp, 29th stated that he strongly supported the bill and that he was a practicing attorney and dealt frequently with juvenile cases. He has experience with the current juvenile court structure, and stated that there is a problem.

Harp, 29th made the motion Do pass by substitute, seconded by Weber, 40th. The committee substitute passed the committee by a vote of 5 yeas, 1 nay. Tarver, 22nd, was the dissenting vote. **SB 207 Do pass by substitute.**

SB 7 (Tarver of the 22nd): Testimony under Oath or Affirmation

This legislation would give General Assembly committee chairpersons the discretion to require a witness to take an oath or affirmation before presenting evidence. This bill also provides that such a witness could be convicted of the crime of false swearing only if the witness makes a false statement concerning a material fact.

A hearing was held on Senate Bill 7 (SB 7). Fulton County District Attorney Paul Howard testified in favor of the bill. The committee members agreed that lying to the legislature has become rampant, but if the Senate was going to put people under oath there are two issues. The first issue is preserving the record so that evidence is available for the prosecution. Secondly, who would have the power to administer the oath. This bill is put on the Special Judiciary Committee for March 5, 2009, at 8:00 a.m.

With there being no further business, the Chairman adjourned the meeting at 6:50 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Judson Hill, 32nd, Secretary

The Senate Special Judiciary Committee met on March 5, 2009 at 8:00 a.m. in Room 310 Coverdell Legislative Office Building. Members present were:

Wiles, 37th, Chairman
Adelman, 42nd, Vice-Chairman
Cowsert, 46th
Harp, 29th
Pearson, 51st, Ex-Officio
Ramsey, Sr., 43rd
Tarver, 22nd

The Chairman called the meeting to order at 8:05 a.m.

SB 7 (Tarver of the 22nd): Testimony under Oath or Affirmation.

Senator Tarver, 22nd offered a substitute to the committee that addressed all concerns of the parties involved.

Shawn Marie Story, Legislative Counsel, was asked to clarify the changes in the legislation. She stated Code Section 16-10-71, false swearing will not change; keep that a separate code section. SB 7 substitute (LC 35 1380S) adds a new Code Section (21-1-19) which gives the chairperson the discretion to put individuals presenting testimony under oath. If the individual testifying lies under oath they are guilty of the crime of false swearing, which is a felony in Georgia.

Wiles, 37th asked why this is needed when it is already against the law to give a false statement to a state agency. Tarver, 22nd stated the General Assembly is not considered a state agency under the current law of false swearing in.

Harp, 29th made the motion Do pass by substitute, seconded by Cowsert, 46th. The vote was unanimous. **SB 7 Do pass by substitute.**

With there being no further business, the Chairman adjourned the meeting at 8:55 a.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator John Wiles, 37th, Chairman

The Senate Special Judiciary Committee met on March 17, 2009 at 3:00 p.m. in Room 125 of the Capitol. Members present:

Wiles, 37th, Chairman
Cowsert, 46th
Harp, 29th
Tarver, 22nd
Weber, 40th

The Chairman called the meeting to order at 3:10 p.m.

HB 71 (Day of the 163rd): Novelty Identification Documents

Representative Day, 163rd explained to the committee that currently it is an offense to manufacture, sell and distribute false identification documents under Georgia law; however, current law states that no offense is committed if the false identification document contains the work “novelty” on the front and back in a non-transparent, easily readable type size. This bill removes this defense, so that the manufacture, sale or distribution of such “novelty” false identification documents will be illegal.

Sandra Michaels, Criminal Defense Lawyers, spoke in favor of the bill adding language that would clarify which type of documents would be classified under this false identification document. On line 11 after the word “a” add the following “false, fictitious or fraudulent”.

John Bankhead, GBI, spoke in favor of this legislation.

No one spoke against the legislation.

Weber, 40th made a motion “do pass”, seconded by Harp, 29th. The vote was unanimous. **HB 71 Do pass by substitute.**

With there being no further business, the Chairman adjourned the meeting at 3:25 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator John Wiles, 37th, Chairman

The Senate Special Judiciary Committee met on March 24, 2009 at 2:00 p.m. in room 307 Coverdell Legislative Office Building. Members present were:

Wiles, 37th, Chairman
Adelman, 42nd, Vice-Chairman
Hill, 32nd, Secretary
Harp, 29th
Tarver, 22nd
Weber, 40th

Chairman Wiles called the meeting to order at 2:20 p.m.

HB 173 (Levitas of the 82nd): Restrictive Covenants in Business Contracts.

Representative Levitas, 82nd explained this bill repeals Code Section 13-8-2.1, relating to contracts in partial restraint of trade. The bill creates a new Article 4 for the purpose of providing statutory guidance in the use of restrictive covenants in employment and commercial contracts. Georgia law will permit enforcement of contracts that restrict competition according to a restrictive covenant, as long as the restrictions are reasonable in time, geographic area and scope of prohibited activities. Any restrictive covenant that does not comply with this law is unlawful and therefore void and unenforceable; however, a court may modify an otherwise unenforceable covenant as long as the modification does not make the covenant more restrictive than originally drafted. Courts cannot refuse to enforce a restrictive covenant because the person seeking enforcement is a third party beneficiary of the contract, or in an assignee or successor to a party to the contract.

Les Schneider and Gould Hagler spoke in favor of the legislation.

The committee had no objections to the bill. Adelman, 42nd made a motion “Do Pass”, seconded by Hill, 32nd. The vote was unanimous. **HB 173 Do Pass.**

HB 549 (Ralston of the 7th): Potential Jurors Who Identify Themselves as Non-U.S. Citizens.

Rep. Ralston presented the bill stating this bill will require clerks of superior courts to transmit monthly lists to the Secretary of State of all persons who identify themselves as not being United States citizens during qualification to serve as jurors, including their addresses, ages, and other identifying information in a format prescribed by the Secretary of State.

Judge Ben Studdard, Henry County stated the goal is to create an automated system process from the Secretary of State with drivers’ license and vital records to weed out convicted felons, dead and non-U.S. citizens. However, the Department of Drivers’ Services can’t give data because of non statutory authority to release information. The purpose is to compile accurate information for counties and jurisdictions for juries.

Bob Sims, Assistant Secretary of State, said he had some concerns with language added in House Rules in Code Section 21 in event of death or conviction of felon. He is fine with the new section which creates new reporting system on line 57, section F.

Adelman, 42nd said this is very important especially in 2010. He suggested the bill be tabled until good language can be worked out. He doesn't think the bill is ready to pass out of committee.

Rob Sims suggested the effective date be change to 2010 to give the SOS office time to set up system. Section 1 effective date 2010.

Adelman, 42nd suggested Section 1 be deleted. No second was made.

Senator Hill, 32nd made the motion to change effective date to 2010, seconded by Harp, 29th. The vote was unanimous.

Senator Hill, 32nd made the motion "do pass by substitute", seconded by Harp, 29th. The vote was 2 yeas: Hill, 32nd and Harp, 29th; 2 nays: Adelman, 42nd and Tarver, 22nd. The Chairman broke the tie with a yea vote, therefore **HB 549 Do pass by substitute.**

With there being no further business, the Chairman adjourned the meeting at 3:00 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Judson Hill, 32nd, Secretary

The Senate Special Judiciary Committee met on March 25, 2009 at 2:00 p.m. in Room 125 of the Capitol. Members present:

Wiles, 37th, Chairman
Hill, 32nd, Secretary
Harp, 29th
Pearson, 51st, Ex-Officio
Tarver, 22nd
Thompson, 5th, Ex-Officio

The Chairman called the meeting to order at 2:05 p.m.

HB 451 (Jacobs of the 80th): Revised Article 7 of the Uniform Commercial Code.

Representative Jacobs, 80th stated the purpose of this bill is to adopt the revised Article 7 of the Uniform Commercial Code (UCC), relating to documents of title, in Georgia. The changes made are

- Provides for the use of electronic documents of title;
- Clarifies effectiveness of warehouse liens and security interests as against persons other than a bailor
- Allows a lessee from the transfer of a nonnegotiable document of title to defeat the rights of the transferee in certain circumstances; and
- In case of a lost, stolen or destroyed document of title, prevents a court from ordering delivery of the goods or issuance of a new document until certain conditions are met.

Roy Stakowitz, with Shippers Warehouse, spoke in favor of the bill.

Senator Tarver, 22nd made a motion Do pass, seconded by Harp, 29th. The vote was unanimous. **HB 451 Do pass.**

HB 16 (Levitas of the 82nd): Electronic Tracking Devices.

Rep. Levitas presented the bill stating this bill involves GPS tracking legislation. The committee substituted exempted private detectives from the law that bans people from using electronic GPS tracking devices for the tracking of individuals. Multiple state licensed private detectives testified on this bill; the committee substitute provided them an exemption.

Eric Echols, Georgia Association of Professional Private Detectives, spoke in favor of the bill.

Senator Pearson, 51st left at 2:30 p.m.

Tarver, 22nd made the motion to delete line 24 of page 1, exempting detectives, seconded by Harp, 29th. The vote was unanimous.

Senator Harp, 29th made the motion do pass by substitute, seconded by Tarver, 22nd. The vote was 3-1. There were 3 yeas: Tarver, 22nd, Harp, 29th and Thompson, 5th; and 1 nay: Hill, 32nd. **HB 16 Do pass by substitute.**

HB 244 Sub (Pruett of the 144th): Name change.

Representative Pruett, 144th stated all this bill does is rename the Georgia Environmental Authority to the Georgia Environmental Finance Authority. Representative Pruett, 144th asked the committee to consider adding the substitute which would add Section 2 which would allow the Public Service Commission to assess the fee from utility companies to pay for expert witnesses in certain cases.

Harp, 29th made a motion to add Section 2, seconded by Hill, 32nd. The vote was unanimous to adopt the substitute.

Senator Harp, 29th made the motion Do pass by substitute, seconded by Hill, 32nd. The vote was unanimous. **HB 244 Do Pass by substitute.**

With there being no further business, the Chairman adjourned the meeting at 3:00 p.m.

Respectfully submitted,

/s/ Kathleen Cominski, Recording Secretary

/s/ Senator Judson Hill, 32nd, Secretary

August 3, 2009

Mr. Bob Ewing
Secretary of the Senate
State Capitol
Room 343
Atlanta, GA 30334

Dear Mr. Secretary:

The Senate Special Judiciary Committee is returning the following Senate and House Bills and Resolutions:

[SB 41](#)

[SB 73](#)

[SB 138](#)

[SB 227](#)

[SR 50](#)

[HB 235](#)

Respectfully,

/s/ Kathleen Cominski
Recording Secretary
Senate Special Judiciary