

MINUTES OF COMMISSION MEETING

December 15, 2011

Present at the New Jersey Law Revision Commission meeting held at 153 Halsey Street, 7th Floor, Newark, New Jersey were Chairman Vito A. Gagliardi, Jr., Commissioner Andrew Bunn, and Commissioner Albert Burstein. Grace C. Bertone, Esq. of Bertone Piccini, LLP, attended on behalf of Commissioner Rayman Solomon and Professor Ahmed I. Bulbulia of Seton Hall Law School attended on behalf of Commissioner Patrick Hobbs.

Chairman Gagliardi advised those attending that Commissioner Edward J. Kologi had tendered his resignation because, as a result of other commitments, including the opening of a second law office, he believed that he was unable to dedicate to the Commission the time needed to be a truly productive member.

Minutes

Chairman Gagliardi called for a motion to approve the minutes of the last meeting and ratify the actions taken with regard to reports. This was done on motion by Professor Bulbulia, seconded by Commissioner Bunn.

Workers' Compensation Claims

Keith Ronan explained that as a result of comments made by Commissioner Kologi at the October meeting, the phrase "reasonable attorneys' fees and costs" was added to the draft statutory language. Mr. Ronan's draft modified only the language of Section 28.1 to reflect the Court's determination in *Quereshi v. Cintas Corp.*, 413 N.J. Super. 492 (App. Div. 2010), that it is mandatory for a judge of compensation to award reasonable attorney fees when a self-insured or uninsured employer or employer's insurance carrier unreasonably delays in paying temporary disability compensation upon having actual knowledge of the occurrence of the injury or notice that compensation is due. He asked the Commission whether they would also like to modify Section 64 to indicate that it does not limit the attorney fee award, and the Commission elected not to do so, determining that modifying the single statutory section was sufficient. Mr. Ronan requested that the report be released in tentative form with a 60 day comment period. Commissioner Bunn moved the release of the report, seconded by Professor Bulbulia.

Uniform Limited Liability Company Act

John Cannel explained that the bill on this project had been released in Assembly Committee and was up for a floor vote today. The New Jersey Business and Industry

Association supports the bill and the Bar Association were thankful for the Commission's support and its assistance in the movement of the bill. There was no opposition to the bill.

Uniform Military and Overseas Voters Act

Marna Brown stated that at the last meeting the Commission had directed Staff to determine if UMOVA was consistent with federal law and was approved by the military. Ms. Brown explained that she and Mr. Cannel took a joint approach. She further researched through her contact at the Division of Elections and was able to locate a letter that was sent from the Department of Defense to Assemblywoman Oliver regarding UMOVA and the Department's appreciation of New Jersey's efforts to improve its election practices consistent with the advances of UMOVA and federal law. This letter had been submitted to the Commission. Ms. Brown was also able to identify the appropriate person to contact at the Department of Defense. In the meantime, John Cannel located the same Department of Defense contact, Bob Kerry. Mr. Cannel spoke with Mr. Kerry's staff and was able to ascertain that New Jersey is on the right track and in line with UMOVA, and that UMOVA is supported by the military. Ms. Brown pointed out that one issue -- voting the ballot electronically (as opposed to obtaining the balloting materials electronically) -- was a bit problematic because it requires printing, signing, scanning, and sending back the ballot. Unfortunately, not every soldier or military person in the field has access to a computer, printer, and scanner, etc. Grant money apparently was available and would be used to attempt to get more equipment out to the field personnel.

Commissioner Bunn wanted to confirm that what is proposed in the report is consistent with the way that military service people actually vote. Ms. Brown said that it was. Ballots are sent out 45 days early consistent with federal law. New Jersey's statute had recently been amended to follow the requirements of federal law. Mr. Cannel said that even if a ship is at sea, the ballots are mailed out early enough that the overseas voter should be able to get the completed ballot back in time for the counting of the ballots.

Ms. Brown said that Staff was seeking release of the report in tentative form. There had been a typographical error on page 5 which would be corrected before the report was released. Also on page 19, one change would be made to the new section, adding language to tie the section with existing New Jersey law. Ms. Brown also asked for a sixty day comment period, which the Commission granted.

Commissioner Bunn asked that Staff send the tentative report to military officials for their comment. Staff said that it would do so and that these very people had been

involved in the process already. Commissioner Burstein moved to release the report, seconded by Commissioner Bunn. The report was released in tentative form with a sixty day comment period.

Property (Title 46)

John Cannel explained that this project had two parts. The Commission must decide whether certain sections can be safely deleted from the statute, and whether the language of the remaining sections will require revision. Mr. Cannel said that Ben Hochberg was working with him on this project and that they would be consulting with Lawrence Fineberg for assistance with preliminary determinations regarding sections that might be candidates for removal from the statute.

Commissioner Burstein suggested revision to the language of section 46A:4-4, and indicated that he would provide his suggested changes to Mr. Cannel after the meeting. Mr. Cannel asked whether, in the opinion of the Commission, the draft was generally moving in the right direction. Commissioner Burstein suggested that, since there are real estate practitioners in most medium and large firms, Staff should make some early preliminary inquiries of practitioners in this area of the law. Several Commissioners indicated that they would suggest some names of individuals for Staff to contact.

Mr. Cannel said that the more experienced individuals reviewing the project, the better and that he hoped to arrange a meeting of experts for February, before the Commission meeting.

Proposed Meeting Dates for 2012

Chairman Gagliardi confirmed the January 2012 meeting for the 19th at 10:00 a.m. and also confirmed that the February meeting (set for the 16th) would be a morning meeting. The March meeting date of the 15th was also confirmed, but the time will be determined later. Chairman Gagliardi hoped to be able to consult with the Commissioner selected to replace Commissioner Kologi before confirming any later meeting dates and times.

Miscellaneous

Ms. Brown said that the trade secrets bill had passed both houses and was waiting for the Governor's signature. Mr. Cannel said that the title recordation bill had passed the Assembly in the beginning of the summer. The county clerks had required

amendments to be made in the Senate. The amended bill which be listed for Senate action on January 9, 2012, and Assembly concurrence with the amendments is possible on the same day leaving room for the possibility that the bill would move before the end of the legislative session. He added that the LLC Act went through one house today but it is not clear if it will get out of legislature this term.

Ms. Brown indicated that the pejorative terms report was in bill drafting and it appeared that Senator Weinberg would like to see it move.

Mr. Cannel briefly discussed the prospects for bill sponsorship, including the necessary UCC titles, and added that Title 19 is very important and needs to be done.

Commissioner Burstein moved to adjourn the meeting, seconded by Commissioner Bunn, and the meeting was adjourned.