

## FINAL DISPOSITION OF LSBA BILL POSITIONS 2015 REGULAR SESSION

Pursuant to the LSBA ByLaws (Article XI (3)), the Board of Governors took the following positions:

The BOG accepted the LSBA's Legislation Committee's recommendation to **SUPPORT** the following bills for the reasons stated (lobbyist's notes in **red**):

- HB 197 (provides with respect to the Judges and Lawyers Assistance Program of the LSBA): Expansion of the LAP program will benefit the legal profession, the administration of justice and society as a whole. The LAP program relies upon lawyers' unique province of understanding the issue because of their training, knowledge and experience as lawyers. In addition, this bill will help impact positively how the general public views the legal profession.

**This bill passed unanimously through both houses.**

- HB 284 (amends provisions of law regarding expungement): This bill clarifies important outstanding issues and has a broad support from diverse stakeholders.

**This bill passed unanimously through both houses.**

- HB 338 (provides with respect to the enforcement and adjudication of state and local taxes and the Board of Tax Appeals): This bill is supported because it affects lawyers as lawyers by regulating or influencing the basic practice of law.

**Though amended at almost every step in the process, this bill passed ultimately with little objection.**

- HB 696 (provides relative to civil procedure regarding summary judgment): This bill impacts the basic practice of law.

**This bill, having the support of almost all sectors of the legal system, passed easily.**

- HB 743 (provides relative to the Business Corporation Act): This bill impacts the lawyers' unique province of understanding because of training, knowledge and experience as lawyers. The bill also impacts the "trade" issues which affect lawyers as lawyers by regulating or influencing the basic practice of law.

**This is a cleanup bill to last year's major revision of the law. It passed easily.**

- HB 801 (appropriate funds for the expenses of the Louisiana Judiciary): The Bar supports the appropriate funding of the judiciary which is important to the Bar, the legal profession, the administration of justice and to society as a whole.

**This bill passed.**

- SCR 16 (directs the State Law Institute to establish a working group to study laws relative to marijuana and make recommendations to protect public safety, hold offenders accountable, and control costs to the criminal justice system): This concurrent resolution is the product of an existing House of Delegates policy.

**This concurrent resolution passed.**

The BOG also accepted the LSBA's Legislation Committee's recommendation to **OPPOSE** the following bills for the reason stated (lobbyist's notes in **red**):

- HB 114 (authorizing attorney fees relative to contempt of court): Allowing attorney fee awards for any contempt of court will lead to increased contempt filings, especially in domestic matters, and will impact the profession adversely. Also, preventing Justices of the Peace from awarding attorney fees for any contempt of court is of great importance to the bar. We do not support the expansion of court systems that often involve a non-lawyer in an adjudicatory role.

This bill was amended in Senate Judiciary A to address partially the LSBA's concerns before finally failing on the Senate floor.

- HB 120 (provides relative to provisional notaries): The LSBA's stance was to take no position, if the bill remained limited to one year and to oppose the bill in the absence of a one year limitation. This bill touches on issues important to the bar, the legal profession, the administration of justice and to society as a whole. A concern is the undermining of lawyer expertise and the unsuccessful pilot program involving affected notaries.

This bill passed with the suggested LSBA amendments.

- HB 136 (with respect to jury trials): This bill is of great importance to the administration of justice and to court access. Lowering the jury trial threshold will cause undue burden on the court system and on potential jurors. Most city courts are not equipped to handle jury trials; most rural judicial divisions are not prepared to handle the increased number of jury trials; and empaneling juries, which is already difficult in many jurisdictions, will become extremely difficult. Lowering the jury trial threshold will also significantly impact the amount of time it will take litigants to obtain trial dates to adjudicate their disputes, which will effectively result in a lack of access to efficient justice.

This issue was not taken up by the Legislature this session.

- HB 142 (authorizes summary proceedings in small claims court): Allowing summary proceedings in the small claims divisions could adversely affect the availability and delivery of legal services. We do not support the expansion of court systems that often involve a non-lawyer in the adjudicatory role.

While the scope of the bill was narrowed in the House Civil Law Committee, the changes did not solve the LSBA's concerns. With added opposition from other groups, the bill did not move any further and died on the House Calendar.

- HB 160 (provides relative to insurance producers and certificates of insurance that willfully misrepresents the nature of a policy): This bill violates our House of Delegates policy against the granting of civil immunities, where the policy sought to be favored is not sufficiently important and the behavior should not be encouraged.

This bill was defeated in House committee and has been converted into a study resolution (HCR 223).

- HB 169 (requires state entities, officials, and employees to provide information to the legislature): This bill violates the separation of powers and as a result impacts the Bar, the legal profession, the administration of justice and society as a whole.

Aimed at the Executive Branch, the bill was amended partially to address the LSBA's concerns regarding its application to the Judiciary but remained extremely broad as it left the House. In the Senate Committee, a number of amendments were adopted including one to exclude from the bill its application to any attorney-client privilege. Despite the amendments, the bill failed 4-3 and died in committee.

- HBs 293, 294 and 698 (requires certain financial disclosures by the Supreme Court): These bills intrude on the separation of powers. As such, these bills' impact is important to the Bar, the legal profession, the administration of justice and to society as a whole.

These bills were part of LABI's "judicial transparency" package. HBs 293 and 294 were the first to be taken up by the Judiciary Committee. The Chief Justice and Justice Guidry testified in opposition to these bills along with LSBA President Larry Shea. HBs 293 and 294 failed. When HB 698 was considered, several amendments were offered and the debate became somewhat frustrating to committee members. Proponents tried to salvage the bill by having it sent to another committee. In a close 9-8 vote, the motion failed and the bill was ultimately deferred (effectively dead for the session). Voting with the LSBA on the critical 9-8 vote were (attorneys underscored) Representatives Adams, Edwards, Foil, Gaines, Harrison, James, Jefferson, Mack and Thierry...while Reps. Connick, Garofalo, Mike Johnson, Nancy Landry, Leopold, Moreno, Morris and Shadoin voted against the LSBA.

- HB 402 (adds requirements for eligibility for income tax credit for taxes paid in other states) and HB 629 (reduces income and corporation franchise tax credits): These two bills were reviewed by the Board of Governors after the Legislation Committee's recommendations. By a supermajority of the BOG, these two bills were opposed because of their adverse impact upon the practice of law.

Both bills passed.

- HB 422 (provides relative to affidavits of corrections as relates to movable or immovable property): This bill was opposed unless it was amended to include rights of adjoining landowners.

The proponents of the bill never came forward with the necessary amendments to cure the LSBA opposition to the bill and it was never heard in committee.

- HB 424 (provides with respect to cellular tracking devices, to create the crime of unlawful use of a tracking device): This bill was opposed because it provided no exception for parents.

Over the course of three scheduled hearings, amendments were prepared to address our stated concerns and the concerns of others but ultimately the bill was never heard in committee.

- HB 488 (provides relative to domestic abuse) (note as to substitute HB 842): The LSBA opposed HB 488, noting that diverse stakeholders also opposed the bill and noting that HB 488 needed additional study and consensus.

HB 488 was amended so significantly in the House committee that it was reported by substitute and became HB 842. This revised version sufficiently addressed the concerns of the DAs and the criminal defense bar such that there was no longer any opposition to the bill. There were some additional minor amendments in the Senate, and HB 842 ultimately passed.

- HB 514 (provides for notice to certain state departments and agencies of suits involving violation of certain permits): This bill affects attorneys and the practice of law and administration of justice. It will create an undue burden on litigants. What is the penalty or remedy for failing to provide the statutory notice? How will this affect pro se litigants? The burden for investigating the compliance with state issued permits is a regulatory issue that should not be shifted to litigants and their attorneys.

LABI, oil and gas industry groups, and a whole host of business groups were successful in pushing this bill through the House. This bill was defeated in Senate Judiciary A with Chairman Nevers and Senators Claitor, Murray, Martiny and Ward strongly supporting the LSBA position.

- HB 605 (provides relative to indigent defender services in capital cases): This bill's impact is important to the Bar, the legal profession, the administration of Justice and society as a whole.

This bill was debated for hours in an extremely heated debate (with the debate occurring at the end of a six hour committee hearing at which LABI's judicial transparency package was also debated). Ultimately, the bill was amended and then deferred so that the DAs, IDB and the criminal defense bar would have additional time to attempt a compromise. Two weeks later, the bill was deferred but HCR 196 was adopted. This HCR creates a study group with a specific mission to review the issues presented in the original bill.

- HB 706 (provides a limitation of liability for certain facilities operated by nonprofit youth organizations) (with note as to substitute HB 839): HB 706 was opposed unless amended to include a narrowly drawn limitation of liability. This bill as originally written violated an existing House of Delegates policy relative to limitations of liability that are not narrowly draw. A substitute bill, HB 839, was filed which sufficiently addressed the LSBA's limitation of liability concerns.

This bill was amended so significantly in the House Committee that it was reported out of the House committee by substitute, becoming HB 839 which passed. The author, a member of the Bar and newly elected in a special election, worked with the LSBA to address our concerns. Working closely with the LAJ, the modifications to this bill may serve as a template in the future with regard to limitation of liability bills which serve a laudable public purpose but whose scope needs to be narrowed.

- SB 36 (creates the Protection for Victims of Sexual Assault Act; makes victims eligible for certain benefits, services, and assistance): This bill adversely impacted the administration of justice and suffers from overbreadth.

This bill underwent changes at every juncture in the process such that the DAs and criminal defense bar were no longer in opposition. The bill passed with substantial amendments.

- SB 205 (creates the Louisiana Balance of Powers of Joint Legislative Committee): This bill violates the federal laws and the supremacy clause.

This bill failed in committee.