

Members

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Sen. John Broden
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Chief Justice Randall Shepard
Hon. James S. Kirsch
Attorney General Steve Carter
Secretary of State Todd Rokita
John Feighner, Esq.
Professor William Harvey



CODE REVISION COMMISSION

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Authority: IC 2-5-1.1-10

MEETING MINUTES¹

Meeting Date: September 26, 2006
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., 233
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Ralph Foley, Acting Chair; Sen. Anita Bowser; Sen. John Broden; Sen. Luke Kenley; Sen. Sue Landske; Judge John Baker, representing Hon. James S. Kirsch, Indiana Court of Appeals; Mr. Kevin Smith, representing Chief Justice Randall Shepard; Mr. John Okeson, representing Governor Mitch Daniels; Mr. Jason Thompson, representing Attorney General Steve Carter; Mr. Jerry Bonnet, representing Secretary of State Todd Rokita.

Members Absent: Rep. Robert Kuzman; Rep. Robert Behning; Rep. Trent Van Haafte; Professor William Harvey; Mr. John Feighner.

Staff Present: Mr. John Stieff, Director, Office of Code Revision, Legislative Services Agency; Mr. Craig Mortell, Deputy Director, Office of Code Revision; Mr. George Angelone, Deputy Director, Office of Bill Drafting and Research; Mr. Dick Sheets, Editorial Assistant, Office of Code Revision; Mr. John Kline, Attorney, Office of Code Revision.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

I. CALL TO ORDER

The meeting was called to order at 10:15 a.m. by Representative Ralph Foley, Acting Chair.

II. ELECTION OF CHAIRMAN

A motion was made and seconded to nominate Senator Sue Landske to be the new Chairman of the Code Revision Commission. Senator Landske was elected Chairman by consent.

III. REVIEW OF MINUTES

The Commission approved by consent the minutes of the Commission's last meeting on October 31, 2005.

IV. INTRODUCTORY REMARKS

Mr. John Stieff, Director, Office of Code Revision, described three major projects for the Code Revision Commission's review during this legislative interim:

- (1) Recodification of the higher education provisions in Title 21 of the Indiana Code.
- (2) The annual technical corrections bill to correct errors in the Indiana Code.
- (3) The bill to change descriptors in the Indiana code to reflect "people first" or respectful language when referring to individuals with disabilities. Mr. Stieff commented that the Legislative Council has charged the Code Revision Commission with studying this topic and that a preliminary draft has been prepared to address the topic.

Mr. Stieff said that he hoped the projects could be accomplished in two meetings of the Commission and suggested late October for the next meeting.

V. RECODIFICATION OF THE HIGHER EDUCATION PROVISIONS INTO TITLE 21

Mr. George Angelone, Deputy Director of the Office of Bill Drafting and Research, presented an outline for the recodification of the higher education provisions of the Indiana Code into 33 articles of Title 21. He noted that the intent of the recodification is to make the related law easier to find and read because the law had been enacted over a period of 150 years and had some duplications, obsolete matter, and sections that are difficult to read.

Mr. Angelone brought the proposed outline to the Commission's attention, noting that it was distributed to members and interested parties. He reported that he contacted about half of the interested parties by phone and would complete the other phone calls soon. He made the following comments regarding this year's recodification:

- (1) He suggested putting like material together and using a more modern structure since like material is scattered all over the Indiana Code and unlike material appears together in places.
- (2) He proposed moving certain subjects to other Indiana Code titles. He proposed moving provisions of higher education law to Title 21 to include scholarships and tuition reductions, private university regulation, and state educational institutions. He proposed that the powers and duties of universities be dealt with in separate articles along with university law outside educational matters, including the state geologist and research centers. He proposed that several changes be made outside Title 21, including moving the authorization to manage hospitals by Indiana University to Title 16 and moving the Indiana Health and Educational Facility Finance Authority to IC 5-1.

Mr. Angelone informed the Commission of four proposals in proceeding with the recodification:

(1) Mr. Angelone asked the Commission if he could proceed with using the outline presented as a basis for writing the preliminary draft and asked if there were any changes to the outline. Senator Bowser asked if the school for the deaf was included in the outline and Mr. Angelone replied that it is not included in the higher educational law outline. Representative Foley asked if the term "state educational institution" would be defined, and Mr. Angelone replied that it would be defined as it is currently. Judge Baker commented that the universities are listed in alphabetical order and not in the order of the creation of each institution.

Senator Landske inquired if universities are aware of the recodification and whether they have had an opportunity to comment. Mr. Angelone stated that letters were sent to all the universities, and that he plans to make phone calls to all universities individually. Mr. Bonnet asked if accreditation law would be included in the draft, and Mr. Angelone said yes. Mr. Bonnet inquired as to the degree that this recodification proposal conforms with other states. Mr. Angelone stated that grouping similar material together is common, that some states have a separate article for each university, and that other states had law that is similarly spread across various provisions like Indiana law is currently.

Senator Landske asked the Commission if proposal number 1 by Mr. Angelone could proceed, and the Commission agreed by consent.

(2) Mr. Angelone asked the commission if he could proceed with eliminating obsolete provisions regarding land sales by universities, primarily related to Indiana University, after consultation with Indiana University. Senator Landske asked if this should be a separate piece of legislation, and Mr. Angelone replied that the material was similar to other material that would be included in the draft, so it could be included in the same preliminary draft.

Senator Landske asked the Commission if proposal number 2 by Mr. Angelone could proceed, and the Commission agreed by consent.

(3) Mr. Angelone asked the commission if he could proceed with grouping the powers and duties of the universities in one area because the current provisions are organized differently for each institution. He asked to group these provisions to make them uniform in language. Representative Foley asked if unique aspects of the universities would still be found under the individual sections for each university, and Mr. Angelone responded that the unique aspects would be contained in the individual sections for each university and the power for those activities would be derived from the uniform general powers and duties sections. Mr. Bonnet asked if it was customary to reserve some articles or chapters to allow for expansion of the law, and Mr. Angelone said that is not done often, and that by moving the law and spreading the provisions, this allows for additional provisions without the need to reserve.

Senator Landske asked the Commission if proposal number 2 by Mr. Angelone could proceed, and the Commission agreed by consent.

(4) Mr. Angelone commented that the fourth proposal involved progressive recodification because he proposes to collapse duplicate law in two areas.

(A) In Title 5 and Title 20, related to the Indiana Health and Educational Facility Finance Authority, he proposed to collapse authorities, powers, and duties that are duplicated.

(B) In the bonding area, Mr. Angelone said that there is a significant amount of overlapping law which he proposes to shrink down so that all of the law can be found together in a single reorganized article.

Mr. Angelone's fourth proposal was to have the recodification of parts A and B above as separate preliminary drafts, so that there would be one for the standard recodification and

one for each of the two subjects mentioned.

Senator Landske asked the Commission if proposal number 4 by Mr. Angelone could proceed, and the Commission agreed by consent.

Senator Landske asked for questions and comments from the audience and there were none. Mr. Angelone then commented that he hoped to have the preliminary draft completed in about three weeks.

VI. TECHNICAL CORRECTIONS BILL

Mr. Stieff noted that one-half of the technical corrections bill involves conflicting sections in two or more bills passed in the 2006 session that amended or added the same section of Indiana Code without recognizing the other bill or bills. Mr. Stieff noted that the very large volume of legislation enacted in the 2006 legislative session resulted in a greater than usual number of conflicts.

Craig Mortell, Deputy Director of the Office of Code Revision, spoke to the Commission about PD 3157, the first draft of the 2007 technical corrections (TC) bill. Referring to the draft and to the SECTION-by-SECTION outline of the draft that had been distributed to the Commission, Mr. Mortell stated that the SECTIONS of PD 3157 fall into two general categories: (1) those that resolve "conflicts," that is, situations involving Code sections that were amended differently by two or more 2006 acts, with the result that the Indiana Code now contains two or more versions of each of those Code sections; and (2) those that deal with a variety of other technical problems in the Indiana Code, such as incorrect internal references, misspelled words, and faulty designation of tabulated items.

Mr. Mortell said that some of the technical problems addressed in PD 3157 were discovered in the Indiana Code by the Office of Code Revision (OCR), some were discovered and brought to OCR's attention by the attorneys in Legislative Services Agency's Office of Bill Drafting and Research, and some were discovered and referred to OCR by persons outside the Legislative Services Agency, including Jason Thompson, who was representing Attorney General Steve Carter at the meeting and had informed OCR about the technical problem in IC 34-51-3-6 that is addressed in SECTION 176 of PD 3157.

Mr. Stieff pointed out that PD 3157 repeals more than 30 sections and chapters of the Indiana Code that have expired by their own terms or will expire by January 1, 2007. These sections and chapters contain provisions like the following: "This section expires January 1, 2006."

Mr. Mortell informed the Commission that PD 3157 comprises most of the SECTIONS that will make up the proposed 2007 TC bill, and that a second draft containing the the rest of the 2007 TC bill SECTIONS will be presented for the Commission's review and approval at the next Commission meeting.

On motion by Judge John Baker, the Commission accepted PD 3157 as the first draft of the 2007 TC bill.

VII. BILL TO CHANGE DESCRIPTORS FOR INDIVIDUALS WITH A DISABILITY

John Kline, attorney with the Office of Code Revision, informed the Commission that the Office of Code Revision prepared a draft to change the descriptors for individuals with a disability in the Indiana Code using the following steps:

- (1) First, the attorneys became familiar with "people first" language through web searches and research of other laws which contained "people first" language.
- (2) Second, the attorneys searched the Indiana Code for roughly 35 search terms of

possible offending language.

Mr. Kline presented the following examples:

- (A) Referring to a group of individuals with a disability as "the disabled".
- (B) Referring to a group of individuals with mental retardation as "the mentally retarded".
- (C) Referring to a group of children with disabilities or without disabilities as either "disabled children" or "normal children".

Mr. Kline commented that this search presented about 700 sections of the Indiana Code.

(3) Then the attorneys removed obvious exclusions, such as references that weren't to individuals (for example, disabled vehicles), or where the person was already "first".

(4) Then the remaining sections were analyzed and sections were removed based on a few guiding principles:

(A) Mr. Kline stated that the goal was to have no substantive legal effect on the provisions. The overriding principle was that descriptors were changed only for individuals, and only to put the person first, so that the rights, benefits, and obligations of persons with disabilities will remain unchanged with these revisions.

(B) Mr. Kline stated that additional sections not included in the bill were sections that included words or phrases in Interstate Compacts, Uniform Acts, and Model Acts, wording or definitions defined or based in federal law, words or phrases included in the names of agencies, facilities, or programs, and the term Disabled American Veteran.

Senator Landske asked if the interested parties were contacted in regard to the bill. Mr. Stieff stated that the bill was available online for the interested parties, and Mr. Kline noted that letters were mailed to the interested parties to inform them of the bill and relay the location of the online draft. Kim Dodson, representing the Association for Retarded Citizens (ARC) of Indiana testified before the Commission and stated that her organization supported the bill and that she was in contact with other organizations representing individuals with disabilities that also support the bill. She noted that the changes to "people first" language was a national trend, and that she was glad the Office of Code Revision had addressed potential problems with changing legal descriptors, so that the rights of individuals with disabilities should not be affected by the revisions.

A motion was made by Representative Foley to keep the people first bill as a separate bill from the technical corrections bill, and the motion was adopted by consent.

IX. CLOSING

The next meeting of the Code Revision Commission was scheduled for October 24, 2006, at 10:00 a.m. in Room 233 in the State House. Senator Landske thanked the staff.

X. ADJOURNMENT

The meeting was adjourned by Senator Landske at 11:15 a.m.