

Minutes

We and Audio of the Executive Committee Uniform Law Commission

July 14, 2020

Chicago, IL

Daniel Robbins, Chair of the Executive Committee, called the meeting to order on July 14, 2020, at 10:05 a.m. Central Time. The following members of the Committee were present: Carl H. Lisman, President; Timothy Berg, Committee on Scope and Program Chair; Bill Breetz, Vice President; Steve Wilborn, Legislative Committee Chair; Tom Buiteweg, Treasurer; Martha Starkey, Secretary; Anita Ramasastry, Immediate Past President; Paula Tackett; Ryan Leonard; and Jamie Pedersen.

Also present: Tim Schnabel, Executive Director; Elizabeth Cotton-Murphy, Chief Administrative Officer; Ben Orzeske, Chief Counsel; and Katie Robinson, Legislative Program Director. The following commissioner Division Chairs were present for part of the meeting: Mary M. Ackerly; William W. Barrett, Lead Division Chair; Thomas S. Hemmendinger; William H. Henning; John McGarvey; and Cam Ward.

1. Life Member Request

A motion was made and approved nominating Levi J. Benton of Texas for election to life member of the Conference.

2. Presidential Priorities

- a. Finance
President Lisman reported on the appointment of a small committee on the collection of state dues, chaired by Vice President Breetz. The committee will focus on dues collection efforts in response to the anticipated downturn in the U.S. economy resulting from the global pandemic.
- b. Governing Documents Review
President Lisman reported on plans to appoint a special committee to review the ULC Constitution, Bylaws, and Rules of Procedure with a particular focus on modernizing the procedures to facilitate the use of technology and to support continued work during emergencies.
- c. Pandemic Study Committees
President Lisman reported on the progress made by the three study committees focusing on epidemics and pandemics. Their subjects include the authority of state governments to respond to public health emergencies, the mitigation of impacts on business operations arising from a public health emergency, and the operation of state government during a public health emergency. Those committees have submitted their reports and recommendations to the Committee

on Scope and Program and Scope and Program has made its recommendations.

d. **Issues of Racial Injustice**

President Lisman expressed his opinion that the ULC needs to consider how it can respond to issues of racial justice, including by considering new projects relevant to the topic.

e. **Preserve the Social Fabric of the ULC Family**

President Lisman noted that the ULC has not held an in-person since the middle of March and it may be a long time before we are able to resume meetings in person. The leadership team will continue to discuss this issue and welcomes ideas on how to preserve the social fabric during the global pandemic.

3. Discussion with Division Chairs

Commissioners Ackerly, Barrett, Hemmendinger, Henning, McGarvey, and Ward reported on the drafting and study committee activities of their respective divisions.

Commissioner Barrett, lead division chair, stressed the importance of training new chairs and reporters and of managing dissent from the dais. The division chairs spoke in favor of continuing to schedule June informal sessions, which provided drafting committees with valuable feedback prior to the annual meeting and afforded committees with additional time to improve their work product prior to bringing it to the floor for final consideration.

The Committee discussed floor discussion delays and the unique challenges of managing floor debate on Zoom. Ben Orzeske, Chief Counsel, suggested that as the ULC becomes more comfortable meeting online there may opportunities to avoid delays, particularly if motions can be submitted well in advance.

4. Pipeline Review

Chair Robbins led a discussion of the proposed possible reading schedule for the 2021 Annual Meeting distributed for the Committee's consideration.

5. Report of the Committee on Scope and Program

Commissioner Berg presented the report of the Committee on Scope and Program ("Scope") and recommends that going forward we consider having one or more virtual meetings of the committee prior to the annual meeting and reserve the in-person meeting for the deliberations over final recommendations.

A. Recommendations Concerning Establishment of New Drafting Committees

1. Scope approved the following resolution for consideration, recommending that a drafting committee to Update Uniform Unincorporated Organizations Act be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee to Update Uniform Unincorporated Organization Acts be formed, with understanding that the update does not include wholesale policy revisions.

The Executive Committee approved this resolution by a unanimous vote, 11 – 0.

2. Scope approved the following resolution for consideration, recommending that a drafting committee on the Public Meetings During Emergencies be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Public Meetings During Emergencies be formed to draft a uniform or model act applicable to state and local agencies.

The Executive Committee approved this resolution by a unanimous vote, 11 – 0.

3. Scope approved the following resolution for consideration, recommending that a drafting committee on Debt Collection Default Judgments be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Debt Collection Default Judgments be formed to draft a uniform or model act applicable to debt collection efforts by third parties.

After discussion, the Executive committee approved, by a vote of seven yes, three no, and one abstention, the following revised resolution:

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Debt Collection Default Judgments be formed to draft a uniform or model act or rule applicable to debt collection efforts by third parties.

4. Scope approved the following resolution for consideration, recommending that a drafting committee on College Athlete Name, Image and Likeness Issues be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on College Athlete Name, Image and Likeness Issues be formed.

The Executive Committee approved this resolution by a vote of six yes, four no, and one abstention.

B. Recommendations Concerning the Establishment of New Study Committees

1. Scope approved the following resolution for consideration, recommending that a study committee be formed on Family Court Emergency Procedures.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Study Committee on Family Court Emergency Procedures be formed to study the need for and feasibility of a uniform or model act addressing the issues outlined in the JEB proposal.

The Executive committee approved this resolution by a vote of eight yes, one no, two abstentions.

2. Scope approved the following resolution for consideration, recommending that a study committee on Mortgage Modifications be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Study Committee on Mortgage Modifications be formed to study the need for and feasibility of a uniform or model act addressing the issues outlined in the JEB proposal.

The Executive Committee approved this resolution by a vote of 8 yes and three abstentions.

3. Scope approved the following resolution for consideration, recommending that a study committee on Cybercrime be formed.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Study Committee on Cybercrime be formed to study the need for and feasibility of a uniform or model act on the subject.

The Executive Committee approved this resolution by a vote of eight yes, one no, and two abstentions.

4. Scope approved the following resolution for consideration, recommending that a study committee be formed to study the need for and feasibility of updating the Uniform Determination of Death Act.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of updating the Uniform Determination of Death Act.

The Executive Committee approved this resolution by unanimous vote, 11-0.

5. Scope approved the following resolution for consideration, recommending that a

study committee be formed on the Criminalization of Student Discipline.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Study Committee on Criminalization of Student Discipline be formed to study the need for and feasibility of a uniform or model act on the subject.

The Executive Committee approved this resolution by a vote of nine yes and two abstentions.

C. Recommendations Concerning Discharge of Committees

Katie Robinson, Legislative Program Director, reported on recommendations for the discharge of committees.

1. Scope approved the following resolution for consideration, recommending that the Study Committee on Third Party Funding of Litigation be discharged.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee on Third Party Funding of Litigation be discharged with a letter of thanks to the committee.

The Executive Committee approved this resolution by a vote of nine yes and two abstentions.

2. Scope approved the following resolution for consideration, recommending that the Study Committee on Covenants not to Compete be discharged.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee on Covenants not to Compete be discharged with a letter of thanks to the committee.

After discussion, the Executive Committee approved, by a vote of six yes and five no, this motion to appoint a Drafting Committee on Covenants not to Compete:

RESOLVED, that a Drafting Committee on Covenants Not to Compete be formed to draft a uniform or model act on the subject.

3. Scope approved the following resolution for consideration, recommending that the Study Committee on Jury Selection and Service be discharged.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee on Jury Selection and Service be discharged with a letter of thanks to the committee.

The Executive Committee approved this resolution by a vote of nine yes and two abstentions.

D. Other Resolution

1. Scope approved the following resolution for consideration, recommending that the scope of the charge of the Joint Committee on UCC and Emerging Technology be expanded.

RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the UCC on Emerging Technologies Committee be authorized to begin drafting on the following topics in addition to those on which it has already been authorized to draft: the scope of the term “assignment” in Article 9 of the UCC and the effect on an instrument’s negotiability of choice of forum clauses or choice of law clauses. Be it further resolved that the Committee’s scope is expanded to include studying potential discrete amendments to the UCC that may not relate to technological developments specifically, but which are designed to remedy misinterpretations by courts or difficulties in practice.

The Executive Committee approved this resolution by a vote of nine yes and two abstentions.

The committee went into an Executive Session at 1:55 p.m.

The meeting was adjourned at 2:25 p.m. Central Time.