

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 31, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Bock (Burgoyne)

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Patrick** called the meeting of the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Martin** moved to approve the Minutes of January 17, 2017. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

Senator Lakey moved to approve the Minutes of January 19, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Thayn moved to approve the Minutes of January 24, 2017. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 10: Unanimous Consent Request for Referral Back to the Senate Floor. **Chairman Patrick** moved to refer **H 10** back to the Senate floor for possible re-referral. There were no objections.

GUBERNATORIAL APPOINTMENT & HEARING: The appointment of Steve Landon of Chubbuck, Idaho, to the State Insurance Fund Board, term commencing April 30, 2016 and expiring April 30, 2020. **Mr. Chubbuck** said he was retired from the J.R. Simplot Company, a lifelong Idahoan and a resident of Pocatello. He gave a brief overview of his family and hobbies.

Mr. Landon said this was his third appointment to the State Insurance Fund Board. He remarked there have been some changes and challenges over the last seven years. **Mr. Landon** said the State Insurance Fund is healthy and efficient and poised to meet any challenges that may happen during the next four years.

Senator Ward-Engelking asked Mr. Landon who he represented on the State Insurance Fund Board. **Mr. Landon** said he represented labor.

GUBERNATORIAL APPOINTMENT: **Senator Lakey** moved to send the gubernatorial appointment of Steve Landon to the State Insurance Fund Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 24892C1: **Relating to Retirement License Status.** **Susan Miller**, Executive Director, Board of Dentistry, stated the Board is proposing revisions to Idaho Code §§ 54-920.02, .06, and .07 in order to resolve three primary issues: 1.) Licensees who choose retirement status who later decide they want to go back to practice. As it currently exists, the statute expressly prohibits conversion of a retirement status license; 2.) current language in the definition of active status allows for absenting practice for not more than two years for specified reasons, however there are many reasons a licensee may need to absent practice and in some cases for longer than two years, and the Board of Dentistry does not have the resources to verify whether active status licensees are actually engaged in practice; 3.) the current language requires proof of 1,000 hours of clinical practice within the prior two years to convert a license from inactive to active status.

Ms. Miller said the Board feels the responsibility lies with the professional to seek continuing education sufficient to assure their current skill and ability in order to be active in Idaho. This would be in line with what would be required of an active status practitioner who may or may not be engaged in clinical practice.

DISCUSSION: **Chairman Patrick** asked if any training was required for a dentist who returned to active status. **Ms. Miller** remarked that dentists who return to active status must complete training. She stated that dentists who work out of the country have other options available, such as a special status license with a specific time duration. **Chairman Patrick** asked if a dentist in the military doing dental work would have the same requirements or would the dental work satisfy the requirement. **Ms. Miller** responded that those who have an active license and are in the military qualify. **Senator Lakey** remarked that he has to keep his attorney license current in the State, even though he is in the Army reserves. He wanted to know if the same rules applied to a dentist or if the dentist had to go inactive while in the military. **Ms. Miller** stated that a dentist has to be licensed in the State but there was a fee waiver for those in the military and applications are processed in a timely fashion. There are approximately 90 active-duty military dentists that have licenses in Idaho.

MOTION: **Senator Martin** moved to send **RS 24892C1** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

RS 24889: **Relating to Authority to Take Emergency or Summary Action Against a Dentist.** **Susan Miller**, Executive Director, Board of Dentistry, stated the Board of Dentistry is proposing to add a subsection to Idaho Code § 54-912(6) by adding language to authorize the Board of Dentistry to commence emergency proceedings against a licensee for revocation or other action if the Board of Dentistry finds there is an immediate danger to the public health, safety, or welfare. Other Idaho healthcare boards have similar language in their statutes. The proposed wording was taken from the Board of Veterinary Medicine's statute found in Idaho Code § 54-2105(8)(c). **Ms. Miller** said as explained in the statement of purpose, the Board sought an informal opinion from the Attorney General regarding this matter and was advised the Board must have a specific delegation of legislative authority to take emergency or summary action against a licensee.

DISCUSSION: **Vice Chairman Guthrie** stated this appears to grant the Board immediate authority, and he wanted to know what the appeal rights would be under this particular action. **Ms. Miller** said due process was established under the Administrative Procedures Act (APA). A licensee would have rights and the Board could not proceed with a summary action against a dentist without cause.

Senator Anthon wanted to know what would prevent the Board from conducting emergency or expedited hearings or proceedings for the revocation of a license hearings now. **Ms. Miller** replied the Board can and did start immediate proceedings in an earlier case in 2016. The Board wanted to advance the process more rapidly through emergency proceedings or an interim suspension pending the hearing. During this particular case, the Board was relying on the APA that outlines the process, but did not realize there was not a specific designated authority. The Board was advised by the Deputy Attorney General in the form of an informal opinion.

Vice Chairman Guthrie stated he wanted to know more about the appeals process and the rights of the individuals who were sanctioned when the bill comes before the Committee at a later date.

MOTION: **Senator Lakey** moved to send **RS 24889** to print. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

RS 24884: **Amending the Idaho Employment Security Law.** **Georgia Smith**, Deputy Director, Department of Labor (DOL), stated that by changing the status of Career Information System positions from exempt (non-classified) to classified involves no major changes in compensation, vacation, sick leave accrual or benefits. Based on the statutes already in place and followed by the DOL, the four positions are earning a salary equivalent to an appropriate department classified pay grade, which is a pay grade "L" as shown in the current Fiscal Year (FY) 2017 compensation schedule as maintained by the Division of Human Resources. This change will increase the DOL's ability to employ and recruit top tier candidates. With Idaho's low unemployment rate and tight labor market, recruiting new employees to an exempt position is a challenge. The proposed change will allow the DOL to maximize the use of its total Full-Time Employee (FTE) count by increasing its ability to redeploy personnel where and when necessary, increase retention, and reduce training costs for staff through access to promotional opportunities within the DOL.

Ms. Smith commented that except for the administrator's position which will remain exempt, all Career information System (CIS) staff will be required to reapply for the newly classified positions.

Ms. Smith reported that delivery of career information is also integrated into the DOL's services it provides to unemployment insurance claimants, job seekers and youth, and is a key component of any application for intensive job search services. CIS also plays an essential role for those participating in services provided by the Workforce Innovation and Opportunity Act (WIOA). Oftentimes, CIS activities are a first step for youth and adults entering into a WIOA program.

Ms. Smith pointed out these positions are also critical for meeting the requirements the DOL agreed to when it received a \$274,275 Corporation for National Community Service Grant. These funds are being used to pay for 11 Idaho AmeriCorps members who are working as college and career coaches at Jerome Middle School, Jerome High School, Burley High School, Weiser Middle School, Black Canyon Alternative High School, Lakeside Junior-Senior High School, Caldwell High School, Canyon Springs High School, Cassia Alternative

High School, Raft River Junior-Senior High School (recruiting), Burley Junior High School (recruiting). All of these schools are rural, low-income schools.

Ms. Smith noted staff are also overseeing work currently being performed by three Volunteers in Service to America (VISTA) members who are assigned to the DOL. Each of the three VISTA members are working with local schools, school districts, workforce providers, and community stakeholders in northern, southeastern and southwestern Idaho to develop locally-driven strategic plans for carrying out career planning activities.

Ms. Smith gave a brief background of Idaho's CIS. She said the CIS was established 36 years ago in 1980 as Idaho's official CIS and the only comprehensive source of career information specific to Idaho and the nation. Throughout the years, delivery of the information housed within this system has evolved from punch cards in the needle sort deck to a robust online service delivery system. Management staff and program administration was originally part of the Idaho Division of Professional Technical Education (IDPTE).

Ms. Smith explained that in 2008, Idaho Code § 72-1345A was amended and the network, employees, and funding responsibility for staffing, populating and maintaining Idaho's CIS were transferred from the IDPTE to the DOL. As outlined in the amended code, Idaho's Workforce Development Council (IWDC) was listed as the designated advisory body and the positions to be transferred were listed as exempt.

Ms. Smith remarked that today there are six employees, including one administrator, three training and marketing specialists, a senior research analyst and a technical records specialist. These employees introduce the system to and help Idaho schools meet the terms and conditions of S 1290, which was passed in 2016 and requires and funds career planning in the schools and school districts throughout the State.

Ms. Smith related that the Idaho Workforce Development Council, consisting of representation from the Office of the State Board of Education, the DOL, the Division of Vocational Rehabilitation, the Department of Education and the Workforce Development Council, serves as the system advisory board. Through the creative use and delivery of information on occupations, wages, and career paths, this system has helped students and adults learn more about career opportunities, education, and training programs at Idaho colleges and universities and reach their career goals.

DISCUSSION:

Senator Martin asked how many employees were affected by this proposed change and how they felt about the change. **Ms. Smith** reported that four of the current career staff will be required to reapply for their positions. The employees support the change. **Ms. Smith** said there were no significant changes to salary and benefits, but that classified status is more secure.

Senator Lakey stated he supported the the proposed legislation, but wanted to know more about the practical effects of this change and the difference between classified and non-classified as it applies to the DOL. He wanted to know about the pros and cons from a management perspective of the individual employees. He asked Ms. Smith to be prepared to supply this information when the bill is heard by the Committee.

Ms. Smith remarked there were situations in the past where there have been staff shortages or there have been tight budgets during times of the administration of CIS and because those positions were listed as exempt in

statute, it has been a challenge to redeploy classified personnel into CIS to help out. Because the employees will be classified, the DOL will be allowed more flexibility in moving staff to support CIS when those times are needed.

Senator Souza asked what the difference was between a Change in Employee Compensation (CEC) for classified employees versus exempt employees.

Senator Souza asked if there would be an impact on the level of benefits.

Senator Souza said she was on the Change in Employee Compensation Committee and she was under the impression that there was a difference between exempt and classified staff. **Ms. Smith** indicated her understanding was that an exempt employee was an "at will" employee. A classified employee has more rights in terms of due process when it comes to termination of a position or being fired.

Vice Chairman Guthrie clarified there was a difference between classified and non-classified employees depending on whether a CEC is recommended. He said there was a potential fiscal impact. He asked for more detail when the hearing for the bill takes place.

MOTION: **Senator Anthon** moved to send **RS 24884** to print. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

DOCKET NO. 24-0101-1601 **Rules of the Board of Architectural Examiners.** **Mitchell Toryanski**, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), said the only change to the pending rule from the version originally proposed is a non-substantive one in Idaho Code § 450.03.b, where the word "architect" is changed to "architectural." There is no fiscal impact to the State. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the IBOL. Only three comments were received.

Mr. Toryanski remarked the 2015 National Council of Architectural Registration Boards (NCARB) Certification Guidelines contain current national standards of certification that protect the health, safety, and welfare of the public. The 2014 NCARB Rules of Conduct contain the latest rules of conduct that architects are required to follow. The Certification Guidelines and Rules of Conduct currently incorporated into the Rules of the Board of Architectural Examiners have been superseded by these publications.

DISCUSSION: **Vice Chairman Guthrie** asked what were the three comments that were received at the IBOL meetings. **Mr. Toryanski** said one comment was about striking the endorsement of seismic knowledge, but he said the statement was no longer needed. The second comment was when the IBOL used the term "architect" and the wording should have been "architectural." The IBOL made the change. The third comment was in support of the changes.

TESTIMONY: **Steve Turney**, CJ Architects, Boise and Real Estate Appraisers Board (REAB) member for ten years, testified in support of this bill. The changes align Idaho with other states.

MOTION: **Senator Thayne** moved to approve **Docket No. 24-0101-1601**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-1801-1602**

Rules of the Real Estate Appraiser Board. Mitchell Toryanski, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), said there are no changes to the pending fee rule and it is being adopted as originally proposed. The proposed rule establishes fees which will be deposited in the IBOL dedicated fund. The fees are \$1,200 for original Appraisal Management Company (AMC) registration and \$1,200 for registration renewal. The renewal includes up to \$50 as determined by the Appraisal Subcommittee of the Appraisal Foundation multiplied by the number of appraisers working for or contracting with an AMC, which the State is annually required to pass through to a federal agency or instrumentality. **Mr. Toryanski** said the Real Estate Valuation Advocacy Association (REVAA) was in support of the rule.

DISCUSSION:

Senator Anthon wanted to know if the \$1,200 fee was new or current. **Mr. Toryanski** remarked there is a cap of \$1,500. When a survey was conducted with surrounding states, the IBOL discovered that some charge \$1,500 and up to \$2,500.

TESTIMONY:

Scott Calhoun, REAB member and practicing appraiser in Idaho, said the Board conducted a survey of surrounding states. The Board projected a registry of 75 AMC's and that the fee of \$1,200 would be less than the cap and also in line to administer the program. The IBOL identified and projected in the Statement of Purpose (SOP) in 2016 that the fiscal impact would be one Full-Time Employee (FTE) at \$45,000 and operating funds of \$20,000 for the registry. The IBOL ideal revenue balance is 1.5 times (\$25,000 overage), which would take the IBOL four years to build for the operation of the AMC registration. These rules will allow registration as of July 1, 2017.

DISCUSSION:

Senator Martin wanted to know why a \$1,200 fee was being charged and was this fee assessed to generate revenue or to limit the number of AMC's. **Mr. Calhoun** said the fee was set to administer the registration program.

Senator Lakey asked if the \$1,200 fee was charged per company or firm. **Mr. Calhoun** reaffirmed the fee was per company or firm.

Senator Lakey wanted to know if the fees were going to be higher than \$1,200 and did the fees fit into the cap. **Mr. Calhoun** went over the REAB's budget for current personnel and operating expenses, the number of credentials, the AMC's and projected personnel and operating expenses. **Mr. Calhoun** said the REAB projected 75 registrants, which would work out to \$867 per registrant. He referred to the survey of surrounding states, fees, and the number of AMC's registered relative to the population. **Mr. Calhoun** stated the addition of \$50 would be coming with a proposed law from the federal Appraisal Subcommittee that oversees appraisers and appraisal management companies. A registry is being established and every state that registers AMC's will be required to pass a \$25 to \$50 (the fee has not been set yet) per appraiser on every panel to the federal registry. The additional fee falls under the law that is forthcoming. If the law in Idaho does not pass with the pass-through fee, the per appraiser registry fee will eat away at not just the AMC registration dollars but also the REAB's dollars. **Mr. Calhoun** remarked that AMC's are only required to register if there is a panel in excess of 15 appraisers. At the minimum, there would be 16 appraisers per panel, but **Mr. Calhoun** stated he thought there would be close to 25. He said the REAB was hoping to gain the authority to collect and pass the fee through.

Senator Lakey asked if the pass-through fee was subject to the \$1,500 cap. **Mr. Calhoun** said that was correct, but said the REAB was not aware there would be a registration pass-through fee when the cap was established. The REAB is presenting the law change to allow collection of the pass-through fee and to administer the program in the State.

Senator Lakey questioned who was the appraisal subcommittee and how would that committee decide whether the fee would be \$25 or \$50. **Mr. Calhoun** said the sub-committee answers to Congress. The subcommittee oversees the Appraisal Foundation, which includes the Appraisal Qualifications Board and the Appraisal Practices Board that developed appraisal standards and requirements for licensure. The Appraisal subcommittee currently maintains a registry of all credentialed appraisers in each state and has a similar registry fee that is required. **Mr. Calhoun** explained that what the registry does for credentialed appraisers is it allows an appraiser from Oregon to obtain a license in Idaho through reciprocity. This gives Idaho the authority to investigate to find out if there were any revocations or suspensions against the appraiser in Oregon or a neighboring state.

Senator Lakey clarified that the appraisal subcommittee is a federal entity and they set the fee and the intent is to mirror the fee that is set. **Mr. Calhoun** said that was correct.

Senator Martin wanted to know how many companies were projected to pay the \$1,200 fee. **Mr. Calhoun** remarked there were 75 projected as of July 1, 2017. He reported that Wyoming had 50 AMC's register on the first day.

Senator Martin said he was aware the self-governing board had deficits in the past (from 2010 to 2014), but it appeared revenues were going up and expenses going down. He wanted to know if there was going to be a significant cost to the REAB that warrants the \$90,000 projection to administer and reinforce the law. **Mr. Calhoun** said he wanted the Committee to know how quickly the REAB went into the negative. Since the REAB raised appraiser license fees, the REAB has been doing well. The REAB has streamlined the application process. The REAB hopes to readjust and reduce the appraiser fees in the future.

Senator Martin asked if the registry of the AMC's would be revenue neutral to the REAB or would the increase generate income and would it cost \$90,000 to administer and enforce. **Mr. Calhoun** said the REAB will have an overage of \$25,000 per year for a total of \$60,000. However, it will take four years to get to the 1.5 times the budgeted amount projected.

Senator Anthon commented that by definition the AMC is a company that is going to have at a minimum 15 state-certified licensed appraisers or up to 25 over two states. He remarked that if there were a minimum of 50 employees at \$25 each, the statute would be violated. Code would have to be amended. **Mr. Calhoun** clarified that from the REAB's perspective, the IBOL was looking at the registration fees, funding fees, the Idaho registration program and after the cap was outlined in law, the federal registry fees that will be required. If all of the fees were considered, the extra \$25 or \$50 would exceed the \$1,500 cap.

Chairman Patrick remarked that this is a service that is being provided to small mortgage companies and a result of the Dodd-Frank Act requirements. The large companies can handle any AMC. He said he assumed the AMC's will charge a service fee to whomever they are working with to get an appraisal. The fees are to help with the administration of the program which has to be solvent. **Mr. Calhoun** explained there had been a number of states that have had enforcement actions. Some have been very high profile cases and quite costly. The State of Utah reported currently there are three enforcement actions at their Attorney General's office. Most of the states he has surveyed have not had significant enforcement actions.

Vice Chairman Guthrie commented that \$45,000 for a full-time employee (FTE) did not seem to include benefits. **Mr. Calhoun** said the IBOL verified the amount of \$45,000 and said the amount was correct and included benefits.

Mr. Toryanski commented the IBOL is not in the business to make money. If revenue is reported, the various boards come to the IBOL and ask for a license decrease.

MOTION: **Senator Anthon** moved to approve **Docket No. 24-1801-1602**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**. **Senator Martin** asked to be recorded as voting nay.

DOCKET NO. 24-1801-1601 **Rules of the Real Estate Appraiser Board.** **Mitchell Toryanski**, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), said this rule incorporates by reference the current version of the Uniform Standards of Professional Appraisal Practice (USPAP), which represents the generally accepted and recognized standards of appraisal practice in the United States. USPAP is adopted in these rules as the rules of conduct and code of ethics for licensed real estate appraisers. Continuing education requirements direct that update courses cover the most recent USPAP edition.

Mr. Toryanski said that on January 1, 2016, the 2016-2017 edition of the USPAP went into effect.

MOTION: **Senator Martin** moved to approve **Docket No. 24-1801-1601**. **Chairman Patrick** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Guthrie passed the gavel to Chairman Patrick.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:42 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary