

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 09, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

**ABSENT/
EXCUSED:** Vice Chairman Guthrie

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 Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Sarah E. Griffin, Boise, Idaho, to the Idaho Personnel Commission (Commission), to serve a term commencing February 28, 2017 and expiring July 1, 2021. **Ms. Griffin** said she believed her background in Human Resources, which has focused in employee relations, performance management, leadership development, and employee engagement positions her well to provide service to the State of Idaho in this role. She currently works for Idaho Power. She said she was honored to serve on the Commission.

MOTION: **Senator Burgoyne** moved to send the gubernatorial appointment of Sarah E. Griffin to the Idaho Personnel Commission, to the floor with the recommendation that she be confirmed by the Senate. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of March 2, 2017. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 142 **Relating to Procurement by State Institutions of Higher Education.** **Senator Martin** said this legislation, recommended by the State Procurement Laws Interim Committee, is intended to clarify language that was enacted last year by the State Procurement Act, H 538 (2016). That bill enacted Idaho Code § 67-9225, which required State institutions of higher education to procure property from State open contracts unless the property could be procured at "equal or less expense to the institution" from a vendor who was not party to the open contract. The term "expense" caused some confusion due to the manner in which that term is typically used by procurement professionals. This legislation is intended to clear up any confusion by revising Idaho Code § 67-9225 and including the term "cost" in lieu of "expense."

Senator Martin said this legislation will have no fiscal impact. The changes to the law are being made for clarity and are not substantive in nature.

DISCUSSION: **Senator Lakey** asked if there was an open contract, could an item be purchased at a lower cost. **Sarah Hilderbrand**, Administrator, Division of Purchasing, said there are open contracts which are mandatory by code. She said she was not sure if this legislation allowed for flexibility. She stated that the code addresses smaller products under the \$10,000 threshold. **Ms. Hilderbrand** said the statute did not require documentation.

MOTION: **Senator Lakey** moved that **H 142** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 143 **Relating to State Procurement.** **Senator Jordan** said this legislation, recommended by the State Procurement Laws Interim Committee, enables individual state agencies to: 1.) participate in cooperative purchasing agreements with other public agencies; and 2.) participate in contracts made by other Idaho public agencies (such as political subdivisions). Allowing agencies to participate in cooperative purchasing and to share contracts would reduce administrative costs to the State by requiring fewer solicitations. As cooperative purchasing agreements contain a higher volume of goods and services, State and other Idaho public agencies would likely be able to procure property for reduced costs as well. To ensure the integrity of the procurement process, this legislation requires that any shared contract must have been made after competitive bidding that is consistent with Idaho law.

Senator Jordan said this legislation will not have an adverse fiscal impact but would likely result in cost and operational savings for the State.

DISCUSSION: **Senator Souza** asked why "one year at a time" was permanently being removed. **Senator Jordan** explained that some contracts last more than one year.

MOTION: **Senator Anthon** moved that **H 143** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

H 98 **Relating to a Real Estate Broker's Business Name.** **Michelle Bird**, Executive Director, Real Estate Commission (Commission), explained that Idaho real estate license law requires the broker's licensed business name to be displayed on advertisements because the broker is responsible for the activities of the brokerage. Based on feedback received from licensees and consumers, this legislation would clarify that the broker's licensed business name must be readily noticeable on licensee advertising. **Ms. Bird** said this legislation will have no fiscal impact to the General Fund or the agency's or the agency's Special Real Estate Account because adding clarification to the advertising requirements does not compel additional agency action or create any new programs.

DISCUSSION: **Senator Souza** asked if this was something people needed to be told and how would "clearly" and "conspicuously" be defined. **Ms. Bird** said that often there has been confusion about the requirements. Complaints have been registered from other licensees when a business name has not been made clear. **Ms. Bird** remarked the Commission is trying to make the law clear and protect consumers in the process. **Senator Souza** asked if the governing board had a way of disciplining licensees. **Ms. Bird** stated that when there is a violation, the Commission takes an educational approach first and tells the broker their ad is misleading. A complaint can be filed and licensees can be fined; however, the Commission prefers not to file a complaint on a simple advertising violation. This bill will create clarity.

TESTIMONY:

John Eaton, representing the Idaho Association of Realtors, spoke in support of the bill. He said it was important to have this legislation for oversight in an attempt to make sure consumers receive the correct information as to who is responsible.

Senator Burgoyne said that if he was working with a real estate agent and the broker's name was not conspicuously displayed, he would call the Commission. He said if there was a problem and the name of the broker was displayed, he would work with the broker to solve the problem.

Senator Anthon asked for clarification of the law. He asked if the advertisement had to include the broker's license and business name. **Mr. Eaton** said the information needs to be specific. There are guidelines, but the guidelines are not as obvious as they should be.

Senator Souza remarked that agents have a contract with a broker and in the contract the name of the broker must be conspicuous. She wanted to know why this has to be put into law. **Mr. Eaton** said the agreement is with the broker and not the agent. The agent must tell the client the name of the broker. **Senator Souza** asked if there was a contract between an agent and a broker. **Mr. Eaton** said some contracts are in depth, but must be uniform throughout the State.

Senator Burgoyne commented this was a good bill and would be well understood by the courts. He said the addition of "clear" and "conspicuous" would be helpful in contested cases.

Senator Lakey remarked he did not like to dictate how businesses should function, but this is an innocuous bill. He spoke in support.

MOTION:

Senator Lakey moved that **H 98** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. **Senator Anthon** requested he be recorded as voting nay.

H 119

Relating to Real Estate Board Fees. **Mitch Toryanski**, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained the 2016 Idaho Legislature passed S 1318 relating to the Idaho Appraisal Management Company Registration and Regulation Act. Federal rules published after the passage of S 1318, will require Appraisal Management Company's (AMC's) that are registered and supervised by states, to pay registry fees in each state to be on the AMC Registry. This bill will give the Idaho Real Estate Appraiser Board the authority to collect these fees and pass them through to the appropriate federal agency or instrumentality.

Mr. Toryanski said this bill will have no impact on the State's General Fund. The IBOL will need approximately \$62,500 in spending authority in order to collect and pass through these fees. There is no fiscal impact because the amendment is consistent with current legislative practices.

DISCUSSION:

Senator Martin asked if the fees would add additional cost to the service provided. **Mr. Toryanski** deferred to Mr. Scott Calhoun, Appraiser and Vice Chairman of the Real Estate Appraiser Board (Board). **Mr. Calhoun** said that at some point fees come from the consumers. Banks are paying the AMC for the service they provide which could be built into appraisal fees that the consumer pays. He said he could not provide a direct connection of the \$25 fee in the transaction. **Senator Martin** asked if the fee was new or was this a fee that had not been recognized before. **Mr. Calhoun** said the fee was not built into the State fees because the Board would exceed the requirements of the AMC law. Smaller AMC's would be hurt as opposed to the larger ones. **Chairman Patrick** remarked that due to the competitive nature there could be a balancing out of the fees.

Senator Anthon asked what would happen if this bill did not pass and how would the fees be collected. **Mr. Calhoun** said the Board would be liable for passing through AMC fees. The monies would deplete registration fees to administer the AMC. The Board has gone from a negative budget to a positive budget next year.

MOTION:

Senator Martin moved that **H 119** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 120

Relating to Morticians and Funeral Home Directors. Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained this bill adds a new section to the Morticians, Funeral Directors and Embalmers chapter of the Idaho Code establishing that the Idaho Board of Morticians may issue inactive mortician and funeral director licenses.

Mr. Toryanski said there is no impact to the General Fund or to the IBOL's dedicated fund. There is no fiscal impact because the limited number of individuals who may wish to have an inactive license instead of an active license is usually offset by the number of individuals who let their license expire in the past because an inactive license was not an option.

DISCUSSION:

Senator Burgoyne asked how licenses would be reactivated. **Mr. Toryanski** said the IBOL would have to make rules. **Senator Burgoyne** commented that the requirement for a year of continuing education in order to reactivate a license seemed not to be enough.

Chairman Patrick asked if some morticians or funeral home directors came back after retirement or letting their license lapse. **Mr. Toryanski** said some retire, but keep their license inactive, some give up their license and regret the decision. He said the IBOL will examine the inactive license holder and may require additional items.

MOTION:

Senator Martin moved that **H 120** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 121

Relating to Driving Businesses. Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained this bill amends the Idaho Driving Businesses Act to clarify that when the Idaho Driving Businesses Licensure Board (Board) accepts a driving business license application, the applicant must submit a certificate of occupancy with the application only if the business teaches from a physical classroom. Currently, driving businesses must produce a certificate of occupancy whether they teach from a classroom or offer only online instruction. The amendment also makes driving businesses responsible for ensuring that its employees and persons under its control who provide driver education are at all times licensed.

Mr. Toryanski stated there is no impact to the General Fund or to the IBOL's dedicated fund. There is no impact because applications are considered by the Board during scheduled meetings and driving business responsibilities do not result in any new State program or compel State action.

MOTION:

Senator Anthon moved that **H 121** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 122

Relating to Architects - Licenses by Endorsement. Mitch Toryanski, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), explained this bill amends the Idaho Board of Architectural Examiner's licensure by endorsement statute to allow architects licensed in other states to qualify for a license by endorsement or a temporary permit if they can pass an examination approved by the IBOL. This will allow the IBOL to consider applicants for endorsement licensure who may have taken an examination for licensure in another jurisdiction other than the examination which is required by the State of Idaho.

Mr. Toryanski said there is no impact to the General Fund or to the IBOL's dedicated fund. There is no impact because these applications are considered by the IBOL during scheduled meetings.

DISCUSSION:

Senator Burgoyne asked if this amendment would put a burden on the IBOL to develop an exam and if at some point in the future would an exam be instituted if necessary. **Mr. Toryanski** said that if this issue comes up again, the IBOL would adopt an exam.

MOTION:

Senator Burgoyne moved that **H 122** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 86

Relating to Public Works Construction Management Licensing. Ron Whitney, Deputy Administrator, Division of Building Safety (DBS), said that in response to a contested case brought to the Public Works Contractor Licensing Board (Board), regarding what constitutes "acting in the capacity of a construction manager", DBS proposes to amend the existing language to provide clearer statutory language and to move existing authority from the Board to the administrator in order to coincide with the authority of the administrator in Title 54, Chapter 19, and to expedite and better address disputes that may be brought forward, without requiring formal Board action.

Mr. Whitney said there is no significant fiscal impact to the dedicated fund. The proposed legislation change is directed at enhanced definition of terms and a shift in authority. Public works license fees will not be modified which is the only revenue source for the affected fund.

DISCUSSION: **Senator Burgoyne** said he did not see a definition of a licensed construction manager in the bill. He asked how a certificate of authority helped. **Mr. Whitney** said the licensing is relevant to public works as some people call themselves a construction manager, but are not certified. A certified construction manager is a person of authority and a requirement for public works contracts.

MOTION: **Senator Martin** moved that **H 86** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** voted nay.

H 87 **Relating to Plumbing and Plumbers.** **Ron Whitney**, Deputy Administrator, Division of Building Safety (DBS), said the initial intent of this idea was to align the plumbing statutes with those of the mechanical and electrical programs. The Plumbing Board has requested more time to study the impact of the legislation before moving forward. However, the remuneration of Board members has and is negatively impacting the retirement saving programs of some Board members, who are requesting that portion of the proposed legislation move forward without delay. **Mr. Whitney** said there is no fiscal impact. The proposed legislation change will affect the compensation of the Plumbing Board members by changing from a salary to an honorarium, but it will not change the amount of pay.

MOTION: **Senator Martin** moved that **H 87** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:41 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary