

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 18, 2018

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Potts, Ward-Engelking, and 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 Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

RS 25802 **Relating to Joint Public Agency Self-Funded Health Care Plans. Senator Anthon** said this legislation amends Idaho Code Title 41, Chapter 41 relating to Joint Public Agency Self-Funded Health Care Plans. The purpose of this bill is to allow the Director of the Department of Insurance to waive the requirement for a joint public agency self-funded health benefits plan to purchase aggregate stop-loss insurance when certain conditions are met.

Senator Anthon said this bill will have no fiscal impact on the General Fund. He advised that Joint Public Agency Self-Funded Health Care Plans are funded by their member agencies using local tax dollars.

DISCUSSION: **Senator Potts** asked if the stop-loss insurance was on the person or the claim. **Senator Anthon** said this does not deal with individual stop-loss. This is the aggregate on top, above and beyond stop-loss claims. **Senator Potts** asked if stop-loss insurance could be purchased per person. **Senator Anthon** said the stop-loss is per person.

Senator Lakey disclosed for the record, under Senate Rule 39(H), that he represents a joint self-funded agency. He said he was supportive of printing this Routing Slip (RS). He was concerned that the RS did not provide any basis for including language from Chapter 40 in Chapter 41. **Senator Anthon** agreed the same concern is on the mind of the Idaho Intergovernmental Authority (III-A). That agency is looking at these regulations so that an environment of less government involvement is created. He remarked he was open to any recommendations.

MOTION: **Senator Burgoyne** moved to print **RS 25802**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the minutes of January 11, 2018. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to introduce the presenters for the rules being heard.

**DOCKET NO.
07-0106-1701**

Rules Governing Use of the National Electrical Code. **Warren Wing**, Electrical Program Manager, Division of Building Safety (DBS), referred to page 19 in the Pending Rules Book, and said the 2016 Idaho Legislature passed House Bill (H) 643, which established Idaho Code § 54-1001A, that directs the DBS to promulgate rules governing the use, inspection and safety of submersible well pumps in Idaho's lakes, rivers, ponds, and streams. This rulemaking amends the electrical code relating to installation and safety requirements of non-listed submersible well pumps in Idaho's waters where authorized swimming and marine activities take place. **Mr. Wing** said the DBS conducted negotiated rulemaking with the pump and electrical industry in order to develop these amendments. Pursuant to the negotiated rule notice, which published in the May 2016 Administrative Bulletin under Docket No. 07-0106-1601, meetings occurred in 2016, which included informal collaborative meetings with industry, and these rule changes were again discussed in the 2017 Electrical Board meetings.

Mr. Wing noted this rulemaking would amend the 2017 National Electric Code (NEC) to add a new section permitting the installation of disconnects grouped in one- and two-family dwelling units where multiple feeders enter the building. Additionally, the rulemaking provides exceptions to several articles of the NEC which address the installation of submersible well pumps in swimming and marine areas, and the electrical equipment used in these installations.

Mr. Wing stated there is no fiscal impact on the State General Fund. Negotiated rulemaking was conducted. **Mr. Wing** gave a brief synopsis of why the materials cited are being incorporated by reference into this rule.

MOTION:

Chairman Patrick moved to approve **Docket No. 07-0106-1701**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0301-1701**

Rules of Building Safety. **Arlen Smith**, Building Codes Manager, Division of Building Safety (DBS), reported there are no changes to the pending rule and it is being adopted as originally proposed. He said that the 2012 International Residential Code (IRC) is currently utilized by building jurisdictions throughout the State; however, it does not provide adequate guidance related to the construction of "Tiny Homes." The construction of "Tiny Homes" in Idaho has increased significantly in the past several years and there is a need to establish specific residential code provisions to properly address some of the unique characteristics of "Tiny Homes."

Mr. Smith remarked the Idaho Building Code (IDBC) Board has approved one amendment to the 2015 edition of the International Building Code (IBC) and one amendment to the 2012 edition of the IRC to be known as the Idaho Residential Code (IDRC). These are the only proposed changes to the rules of the DBS. **Mr. Smith** said that pursuant to Idaho Code § 67-5229(2)(a) the materials cited were incorporated by reference into this rule. The "Tiny Home" provisions contained in this rulemaking would be added as an appendix to the IRC, and may be adopted by building code jurisdictions to address the installation of such homes. Additionally, because of increases to allowable design stresses in the 2012 IBC, masonry allowable stress design (ASD) lap lengths could exceed strength design laps. Placing a limit on the required lap length corrects this problem and provides consistency between masonry design methods.

Mr. Smith noted this rulemaking adds several provisions to the IRC in the form of a new appendix addressing certain aspects of "Tiny Homes." These include key definitions, as well as provisions related to ceiling height, lofts, stairways and ladders, and escape and rescue roof access windows. **Mr. Smith** pointed out a typographical error on page 35(e), the wording should say "lap splices" and not "plices." He said cities and counties can adopt more guidelines into their codes.

Typical "Tiny Homes" are built with lofts for sleeping. A roof window has to be provided for escape in case of a fire. According to code, there must be an escape in the room where a person is sleeping. This rulemaking will also add an amendment that will place a limit on the required length of reinforcement lap splices for ASD of masonry. It will make the allowable stress maximum lap length equivalent to the current strength design maximum lap length. Negotiated rulemaking was conducted.

DISCUSSION: **Senator Burgoyne** asked for clarification of the "Tiny House" provisions. He stated that under Idaho Code, these provisions cannot be mandatory or cannot be more restrictive than any amendments to the code. He then referred to pages 37-39 and queried if the rules were more restrictive. **Mr. Smith** replied that in some cases the rules may be and in some cases not and it depends on the official. **Senator Burgoyne** asked if the statute should be recited to help officials dealing with the rule. **Mr. Smith** said counties can adopt stricter laws for their county or city.

Senator Lakey asked if the builders of "Tiny Homes" were involved in negotiated rulemaking. **Mr. Smith** said builders were involved and "Tiny Homes" were brought to the attention of the DBS by an advocate for "Tiny Homes." He stated the appendix chapter will exist in the 2018 IDRC. A discussion ensued between Senator Lakey and Mr. Smith about headroom in a loft or sleeping quarters.

Senator Potts remarked that what he was hearing is that counties and cities have a choice. **Mr. Smith** said the ordinance has to be printed, but can also be put in a link on the web.

Senator Souza mentioned that the IRC is going to adopt these rules into code soon and was not Idaho Code more restrictive than the IRC. **Mr. Smith** said the effect of this appendix chapter depends on how the building official interprets and applies the building code. Under some interpretations and applications of the code, the appendix chapter will actually impose more requirements on the construction of these small homes. Many see the appendix chapter as providing relief from some requirements.

Chairman Patrick remarked that the IRC was not liked by many. He said he visited a subdivision of "Tiny Homes" in Kansas put into place for homeless vets. **Mr. Smith** said that the impediments to "Tiny Homes" are there but the building code is not competitive to their construction.

Senator Burgoyne remarked that Idaho cannot be more restrictive than the IRC. He asked what the 2012 code said and if Idaho was more restrictive. **Mr. Smith** said the same regulations apply to any other home that is being built. There are minimum sizes, dimensions, and plumbing code requirements. A 150-square foot home can be built that still complies with code. The only problem with "Tiny Homes" is head room height, which is 7 feet. **Mr. Smith** said a stairway or a ladder could be implemented instead of a rescue escape roof window. However, the building code states that stairs are required for all habitable spaces. A loft cannot be treated as a habitable space and currently there is no requirement for a ladder. **Senator Burgoyne** asked if this docket was adopted, but the rescue escape roof window and the loft access were rejected, would that cause an issue? **Mr. Smith** said that would be a problem because these were two of the issues that those who brought this rule forward thought were important.

TESTIMONY: **Jason Blaze**, City of Boise, testified he was approached by the "Tiny Homes" organization. He said these rules are exceptions and make it easier to build a "Tiny Home." Under current code, this kind of house would not be approved. However, the amendments were a good idea. **Senator Martin** asked if there was anything unsafe about these houses. **Mr. Blaze** said that adding an extra skylight window was a good escape route. All "Tiny Homes" must meet the standard building code. **Senator Lakey** remarked he wanted to approve the docket because he liked the idea there were options.

MOTION: **Senator Lakey** moved to approve **Docket No. 07-0301-1701**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0311-1701 **Rules Governing Manufactured/Mobile Home Industry.** **Patrick Grace**, Regional Manager, Division of Building Safety (DBS), reported the name of the Manufactured Housing Board (MHB) was statutorily changed to the Factory Built Structures Board (FBSB) in 2016. Additionally, individuals licensed in the Manufactured Housing (MH) industry as installers, and retailers who are installers, are required to perform continuing education in order to renew their licenses. The DBS and FBSB desire to establish the amount of continuing education credits in an amount consistent with the federal licensing requirements, which is eight hours of continuing education during the three-year period prior to licensure renewal. **Mr. Grace** reported this new requirement reflects a more practical and valuable schedule for licensees to acquire necessary education. The rulemaking also modifies the requirement that installers of manufactured homes, or retailers who are also installers, complete eight hours of continuing education during the three-year period prior to licensure renewal in lieu of 12 hours of education that is currently in the rules. **Mr. Grace** said there was no fiscal impact and negotiated rulemaking was conducted.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 07-0311-1701**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0312-1701 **Rules Governing Manufactured/Mobile Home Industry.** **Patrick Grace**, Regional Manager, Division of Building Safety (DBS), reported that pursuant to Idaho Code § 44-2201, all used mobile and manufactured homes shall be installed in accordance with the Idaho Manufactured Home Installation Standard (Standard), as provided by rule. The Standard has not been updated since 2004. Through the negotiated rulemaking process the DBS and DBS Board have established a newer and updated edition of the Standard reflecting installation requirements and safety considerations currently applicable to the industry. Additionally, the DBS is seeking to modify the training requirements for manufactured home installation inspectors to reflect the Standard and adopts the 2018 edition for application to the installation of used manufactured homes in the State. The rulemaking also modifies the annual training requirements for inspectors of manufactured home installations from an annual four-hour training requirement to eight hours of training every three years. **Mr. Grace** said there is no fiscal impact. Negotiated rulemaking was conducted.

DISCUSSION: **Senator Burgoyne** asked if there was a link to the Standards for January 2018. **Mr. Grace** said the link was publicly available on the website. **Senator Burgoyne** asked Mr. Grace to explain the differences from the 2004 to the 2018 editions. **Mr. Grace** indicated the DBS began with 2004 to address the updates. He mentioned the fiscal impact was a positive one for installers because of the updates in technology. **Senator Burgoyne** stated that when rules are incorporated by reference, the Committee needs to have a summary of the changes. **Senator Lakey** agreed with Senator Burgoyne and said he was interested in moving the hearing for the rule to another date and asked for a written summary when Mr. Grace came back.

TESTIMONY: **Teri Ottens**, representing the Idaho Housing Alliance, outlined the four major changes incorporated by reference. She mentioned that duplication was removed.

Senator Lakey thanked Ms. Ottens for the summary, but stated he wanted a written summary of the rules incorporated by reference.

MOTION: **Senator Lakey** moved to hold, at the Call of the Chair, **Docket No. 07-0312-1701** until a written summary was completed. **Senator Burgoyne** seconded the motion.

Senator Potts asked if this Committee was setting an expectation and a standard when other committees have not. **Vice Chairman Guthrie** explained the Committee was moving towards an environment where information was needed. Each rule is different and may have a different application. **Senator Souza** remarked that she wanted to see a summary of reference by incorporation.

The motion carried by **voice vote**.

**DOCKET NO.
07-1001-1701**

Rules Governing the Damage Prevention Board. **Patrick Grace**, Regional Manager, Division of Building Safety (DBS), said the program is relatively new and these rules were heavily negotiated. He reported it is expected there will be a positive impact on the Damage Prevention Board (DPB) dedicated fund as civil penalties are collected; however, that may be offset by a negative impact to the DBS as a result of the need to perform investigative activities in response to complaints received. Civil penalties will only adversely affect those stakeholders who do not comply with legal requirements. **Mr. Grace** noted a positive and necessary economic result will be the reduction of underground facility damages throughout the State of Idaho, as well as reinforcement of public safety through the protection of life and property. The fiscal impact to the various stakeholders providing such assurance may be significant on additional staffing and supporting resources to effectively reduce damage to underground facilities. Such expenses to facilities owners are expected to be offset by the reduction of actual damages when the Damage Prevention Program begins to operate effectively. These rules were temporary in 2017.

DISCUSSION: **Senator Burgoyne** referred to the civil penalties language and asked if someone committed all 11 violations in one day would the fine be \$5,000 or \$50,000. **Mr. Grace** said that for each day the violation occurs, there would be a fine. The level of a \$50,000 fine would not be imposed in this instance. **Senator Burgoyne** asked if it was a matter of DPB discretion if 11 violations were committed in one day. **Mr. Grace** commented a higher penalty could be imposed for multiple violations.

MOTION: **Senator Ward-Engelking** moved to approve **Docket No. 07-1001-1701**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

Brad Hunt, Office of Administrative Rules, Department of Administration, remarked that incorporation by reference was a synopsis of the rule submitted by the various agencies which outlines the difference between what is currently enforceable and what is being proposed. The incorporation by reference is provided with a synopsis with the legislative proposal analysis. This is only on the electronic version of the rules.

Vice Chairman Guthrie asked Mr. Barnes if he would yield his time to Mr. Jeffres, who had a flight to catch.

**DOCKET NO.
07-0817-1701**

Idaho Minimum Safety Standards and Practices for Logging - Cable-Assisted Logging Systems. **Larry Jeffres**, Deputy Administrator, Division of Building Safety (DBS), referred to a letter of support from the Associated Logging Contractors of Idaho (Attachment 1). He said the Associated Logging Contractors, in collaboration with major forest land owners, requested the implementation of these rules for the primary purpose of ensuring the safety of those involved in logging operations.

MOTION: **Senator Souza** moved to approve **Docket No. 07-0817-1701**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0401-1701**

Rules Governing Safety Inspections - General. Gary Barnes, Industrial Safety Program Manager, Division of Building Safety (DBS), remarked the rules were updated to conform with codes. He said that many of the statutory references, as well as certain provisions related to other programs and authorities in the current rules are very outdated, and do not apply. Additionally, statutory authority to administer the Safety Program for State facilities was transferred solely to the DBS in 2015. Accordingly, other applicable rules related to the inspections which were previously administered by the Idaho Industrial Commission (IIC), have been updated. The rule also eliminates unnecessary references to programs that are no longer administered through the DBS Safety Program such as elevators and boilers. **Mr. Barnes** reported the rulemaking updates certain requirements for public employers to ensure a safe workplace, as well as the annual inspection process the DBS currently engages in when inspecting State facilities.

DISCUSSION:

Senator Lakey asked for a written summary indicating what is being adopted. **Mr. Barnes** pointed out the rule was 21 years old and there were many references to uniform codes which were obsolete in the year 2000.

Senator Souza suggested that since Mr. Barnes had two more rules to present and the Committee was out of time, she asked if all three rules could be held and presented at a another meeting. She asked that a summary of any changes be provided. Vice Chairman Guthrie and Chairman Patrick agreed.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

ADJOURNED:

There being no further business at this time, Chairman Patrick adjourned the meeting at 2:57 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary