

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 15, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Cook, Senators Lakey, Guthrie, Ricks, Foreman, Hartgen, Lenney, Ward-Engelking, and Ruchti

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 Cook** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:35 p.m. He announced the introduction of the new Page would be heard after the Minutes were approved.

MINUTES APPROVAL: **Minutes of February 6, 2024. Senator Ward-Engelking** moved to approve the Minutes of February 6, 2024. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

INTRODUCTION: **New Page Keegan Watts. Chairman Cook** introduced Mr. Watts and asked him to tell the Committee about himself. **Mr. Watts** stated he was from Meridian and was looking forward to learning more about government and to become acquainted with everyone.

PRESENTATION: Rules Review of ZBR Process. Josh Scholer, Bureau Chief Regulatory & Legislative Affairs, Division of Financial Management, gave an overview of the ZBR Chapter process. He explained the rule, just like statutes, served the sole purpose of an enforcement document, not a user manual or informational pamphlet. The purpose of the rules was to implement the law set by the Legislature. He noted rules should not change or confuse policy requirements or expectations. Agencies were directed by the Governor's office to examine every rule and only use those that were actually necessary and served the purpose of enforcing the law. He noted if an agency already possessed express authority to promulgate a rule, they did not need to outline or restate their authority to do so in rule.

Mr. Scholer remarked anything already in statute, or anything already spoken to by the Legislature, did not need to and should not be in rule. The expectation was that the public looked first at Idaho Code to see the policy set by the Legislature.

DISCUSSION: **Senator Lakey** asked if there was much more verbiage to cut in the rules. **Mr. Scholer** explained he read every rule that was being reviewed and compared them to the statutes. He noted there were many statutes that were duplicative or that changed what was in place. There was a lot more work to be done.

Senator Guthrie asked for clarification on a rule that changed what the Legislature had in statute. He asked if the legislative body was allowed to look at a rule if they saw something that was in conflict with statute. **Mr. Scholer** affirmed and cited Idaho Code, Article 3, Section 29, stating that the Legislature may review any administrative rule to ensure that it was consistent with legislative intent and as provided by law. He noted H 206 said that a finding of fact had to be done which included providing the agency with a description of why the rule did not meet the legislative intent.

**DOCKET NO.
24-3930-2302**

Rules of Building Safety (Building Code Rules) (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule, p. 351. **Amy Lorenzo**, Bureau Chief, Building Construction & Real Estate, explained the pending rule chapter was reviewed and agreed to be consistent with the substance and purpose of the rulemaking. There were no changes to the pending rule and it was adopted as originally proposed. She noted language was clarified, streamlined, and redundancy was reduced. **Ms. Lorenzo** reported current code was connected to the International Building Code (IBC).

DISCUSSION:

Senator Ricks stated some of the administrative rule sections were deleted because the IBC had different requirements. He queried if the State of Idaho was losing some regulations by deleting those sections. **Ms. Lorenzo** stated that Idaho Code was adopted and connected to the IBC, but incorporated connectivity to the International Residential Code, the International Commercial Code, and the IBC. There were references to those codes because they were not interconnected, but collectively oversaw what the residential and commercial structures looked like.

Chairman Cook referred to page 363, 001.b., Section 3104, and asked for clarification as to whether to add or delete "Dwelling units providing day care for 12 or fewer children." **Ms. Lorenzo** stated the addition of this phrase actually reduced the burden for day care with an added exemption for day care that had fewer children.

Senator Ricks asked for clarification as to whether a duplex was required to have a fire sprinkler system. **Ms. Lorenzo** deferred to Building Official Sam Zahorka. **Mr. Zahorka** indicated that currently the one- or two-family dwelling code, which included a duplex or two-family dwelling, was in the residential code. Anything larger than a two-family dwelling, such as a commercial occupancy, required a fire sprinkler system.

Ms. Lorenzo noted the Factory Built Structures Advisory Board was striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce a regulatory burden to achieve a more efficient operation of government. The definition of modular and manufactured mobile homes were restructured to be the same. This provided consistency in the rule.

MOTION:

Senator Guthrie moved to approve **Docket No. 24-3930-2302**. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-3931-2301**

Rules for Factory Built Structures (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule, p. 378. **Amy Lorenzo**, Bureau Chief, Building Construction & Real Estate, explained the rules for Factory Built Structures governed both the manufacture and installation of modular buildings in Idaho and the manufacture, selling, and installation of manufactured or mobile homes in Idaho. She stated the proposed rule chapter was reviewed and agreed to be consistent with the substance and purpose of the rulemaking. There were no changes to the pending rule and it was adopted as originally proposed.

MOTION:

Senator Hartgen moved to approve **Docket No. 24-3931-2301**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-3950-2301**

Rules of the Public Works Contractors License Board (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule, p. 400. MiChell Bird, Investigation Program Manager, Division of Occupational and Professional Licenses (DOPL), reported language was added in collaboration with stakeholders. Clerical errors and correct identification of working capital requirements for an unlimited licensure type were corrected.

Ms. Bird highlighted two substantial changes. She stated the State's population growth remained the highest among states in the nation. The economy surrounding the construction industry had shown dramatic changes since the current standards were placed in rule several years ago. The net worth and working capital amounts required to qualify for each specific class of license were updated for the classes to more closely reflect the current economy. **Ms. Bird** explained that net worth was the value of assets that a person owned, including such items as vehicles or tools. The working capital essentially indicated the contractor's liquidity, to ensure they had the resources available to finish the public works projects. This protected public funds that paid for these projects. It was important to note that six of these eight license classes were last updated in 1999 or 25 years ago. Between 2006 and 2023 the maximum job value doubled.

Ms. Bird noted that 125 separate categories of specialty construction were removed. The reason was that the existing categories were an arbitrary classification added to the rules that specialty contractors could select their specialties. Upon application, these Type 4 license holders could self-declare specialties based on the Standard Industrial Classification (SIC) Codes that were connected with the work that they normally performed. This would allow interested parties to search for license holders by work type that conformed with the widely accepted SIC Codes. The process was simplified for applicants under the current 125 separate categories.

DISCUSSION: A discussion ensued among **Chairman Cook**, Committee members, and **Ms. Bird** relating to the House rejecting part of this rule. **Ms. Bird** explained the House felt the changes were too substantial. **Senator Hartgen** stated she had no problem with the increase in fees.

MOTION: **Senator Hartgen** moved to approve **Docket No. 24-3950-2301**. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: A discussion ensued among the Committee members relating to approving the docket that the House rejected and the consequences. **Senator Guthrie** asked that Mr. Scholer explain the ramifications. **Mr. Scholer** explained that any rule change, whether it was a fee or non-fee, had to be approved by concurrent resolution. There could be two concurrent resolutions with one approving the docket in its entirety and the other rejecting part of the rule. He remarked the Governor's office oversaw the changes and worked with agencies and legislators to try to come to an agreement. In response to questions by **Senator Ricks**, **Mr. Scholer** stated if one body approved the concurrent resolution accepting the entire docket and the other body approved the concurrent resolution rejecting part of the docket, then none of the changes went into effect.

Mr. Scholer remarked the three reasons in code to form temporary rules was to protect public safety, health, and welfare. The ability to form temporary rules was very restricted. He also noted that Idaho Code said that when rejecting a rule, there needed to be a finding of fact about why the legislative intent of the statute was not met. He explained the Committee did not have to mirror what the House did and could approve the docket in full.

VOICE VOTE: The motion to approve **Docket No. 24-3950-2301** carried by **voice vote**.

S 1238 **WORKERS' COMPENSATION - Amends existing law to remove a requirement that a notice of hearing be sent by registered or certified mail.** **Kameron Slay**, Commission Secretary, Idaho Industrial Commission (IIC), explained this legislation retained the requirement that the IIC give at least ten days written notice of hearing to the parties, but eliminated the requirement that notice must be served on the parties by certified mail. The amendment allowed for service of a Notice of Hearing to be made by regular mail or email. Pro se litigants were allowed to file and receive pleadings by email, regular mail, personal service, or facsimile transmission. There was no opposition. **Ms. Slay** noted there was no impact on the State's General Fund or any dedicated or federal fund because this change resulted in a de minimus savings in dedicated fund monies.

MOTION: **Senator Ward-Engelking** moved to send **S 1238** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1271 **DEPARTMENT OF COMMERCE - Repeals existing law relating to the Idaho Global Entrepreneurial Mission (IGEM) Grant Program.** **Senator Okuniewicz** reported this bill repealed Idaho Code, Title 67, Chapters 4725, 4729, 4730, and 4731 short-titled "The Global Entrepreneurial Mission," as well as the corresponding section of rules. Repealing of IGEM had a yearly savings for the State General Fund of \$1,000,000 from the Idaho Department of Commerce budget.

DISCUSSION: **Senator Ricks** asked where the \$1 million from the budget was going. **Senator Okuniewicz** stated the money was not spent and was going to be made available for other programs.

TESTIMONY: **Kristin Coleman**, Chief Training Officer, InUpowers Company, Rexburg, testified in opposition to the bill. She noted her company had spent the last three years working with educators and therapists to design a program that helped children process their emotions so they could make healthy choices. She noted the InUpowers program built emotional resilience while teaching a child how to self-regulate.

The news of the discontinuance of the IGEM grant was shocking to their team. They dedicated endless weeks to the grant process, submitted three revisions, and worked extensively with the principal investigator assigned to their grant. She expressed deep concerns on the part of their legal team, about the pending trademarked content that was released without any safeguards of an IGEM review committee, or the reassurance from a university contract to protect what they had spent years to design.

Ms. Coleman remarked that on an ethical level, it seemed appropriate to award one recipient for the first quarter in light of knowing there was no funding available. She stated they recognized that they may not have been awarded the grant. However, had the company known that, they never would have pursued a grant that had no funds. She stated it was their desire that the Committee take into consideration the difficult place this decision made for many and the impact this setback had created for Idaho businesses.

DISCUSSION: **Senator Ward-Engelking** asked Mr. Kealey, Director, Department of Commerce (DOC) to explain. **Mr. Kealey** stated the decision was made to pause the IGEM program on January 19, 2024. At that time the universities were told and no applications were submitted. He heard about this particular application yesterday. He said he looked to see if the grant was completed and it was not and not subject to review. **Senator Ward-Engelking** queried if there were other funds within the DOC that could be used. **Mr. Kealey** stated there were none. He suggested Ms. Coleman talk to the universities. **Senator Ward-Engelking** commented that the money invested to get the grant ready bothered her. **Mr. Kealey** stated the DOC received an email that the company had invested \$10,000 to get ready to submit this application.

Chairman Cook asked if there were any other applicants. **Mr. Kealey** noted there were none completed by January 19. He stated that an incomplete application would go to the next round of applications later in the year. **Senator Ward-Engelking** stated she thought not enough advance notice was given and that a year's notice was preferable.

MOTION: **Senator Lenney** moved to send **S 1271** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

DISCUSSION: **Senator Ward-Engelking** stated she would vote aye for this bill as long as Mr. Kealey helped Ms. Coleman. **Senator Ricks** stated he agreed with Senator Ward-Engelking. **Senator Hartgen** spoke in support of Senator Ward-Engelking, stating if a grant process was stopped, a year's notice should be given.

VOICE VOTE: The motion to send **S 1271** to the floor with a **do pass** recommendation, carried by **voice vote**.

NOTE: Due to the lack of time, **Chairman Cook** stated **S 1283**, **S 1284**, and **S 1286** would be held until the next meeting.

ADJOURNED: There being no further business at this time, **Chairman Cook** adjourned the meeting at 2:58 p.m.

Senator Cook
Chair

Linda Kambeitz
Secretary