

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 03, 2020

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Chairman Patrick** announced the minutes approval would be moved to a later time on the agenda.

S 1372 **Relating to Fire Protection Districts.** **Senator Guthrie** explained that currently Idaho Code provides opportunities for the creation and organization of fire districts. It further allows for consolidation, dissolution, inclusion, annexation, and withdrawal as changing conditions and growth patterns may dictate. **Senator Guthrie** outlined the process. He noted there was a local city that was served by a fire district near his home that indicated they would no longer provide fire services. At the time this legislation was not in place and there was no recourse for the city.

Senator Guthrie explained there would be no impact to the state General Fund. In the event a local fire district were to split, there could be a positive or negative fiscal impact that would be dependent on a case-by-case basis and impossible to quantify.

DISCUSSION: **Senator Souza** and **Senator Guthrie** discussed the cost of splitting a fire district and how that would have a bearing in the decision-making.

Senator Thayn and **Senator Guthrie** discussed there had to be an agreement by resolution with current Fire Protection District Board members before a public hearing could take place.

MOTION: **Senator Souza** moved to send **S 1372** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 476 **Relating to Real Estate Brokers.** **Senator Bayer** explained a section of code is eliminated which requires a broker's physical presence in the office at certain intervals. Brokers are required to properly supervise sales associates, regardless of location. Advances in technology have made it possible for brokers to supervise contracts electronically. The physical requirement created unnecessary restrictions for the business models of some brokerage companies. In order to protect the consumer in a real estate transaction, language was added to clarify the broker's responsibility to be reasonably available to answer questions and complaints.

Senator Bayer indicated there will be no fiscal impact to the General Fund or the Special Real Estate Account because adding clarification to the requirements does not compel additional action or create any new programs.

MOTION: **Senator Souza** moved to send **H 476** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 421 **Relating to Real Estate Appraisers. Scott Calhoun**, Idaho Real Estate Appraiser Board (IREAB), indicated this bill will remove from the discipline section the reference to the Uniform Standards of Professional Appraisal Practices (USPAP) regarding the terms "negligent" and "incompetent," since USPAP does not define those terms. The bill will also clarify that discipline from any state is grounds for the IREAB to deny an application for licensure and will codify that fees the IREAB receives will go into the occupational licenses account in the dedicated fund. In addition, this bill will remove the "good moral" character requirement as it relates to Appraisal Management Companies (AMCs) and require pertinent individuals to comply with the minimum federal regulations.

Mr. Calhoun noted there is no impact to the General Fund, because the IREAB operates solely on dedicated funds. There is no impact to the Idaho Bureau of Occupational Licenses (IBOL) dedicated fund since the proposed legislation will not alter the number of meetings held each year, require more services to be provided, or change any fee schedules.

DISCUSSION: **Senator Burgoyne** asked for clarification on the removal of the term "good moral character." **Mr. Calhoun** explained the federal requirements already refer to "good moral character" and the removal of this language was a compromise by the subcommittee of the IREAB to avoid redundancy and to comply with federal requirements. **Senator Burgoyne** queried if the legislation would allow flexibility to oversee the conduct of good moral character. **Mr. Calhoun** stated applicants have to go through a background check. He remarked the language was a good compromise for the licensure program in order to remain in compliance with federal requirements and to accommodate the needs of the Legislature.

A discussion ensued between **Senator Souza** and **Mr. Calhoun** relating to the lack of a definition for "negligent" and "incompetent" and agreed that information could be added at a later time.

MOTION: **Senator Burgoyne** moved to send **H 421** to the floor **without** recommendation. The motion died for lack of a second.

TESTIMONY: **Kelley Packer**, Director, IBOL, reported that during an audit the IREAB was advised to remove the words "good moral turpitude" from the statute for AMCs because they would have been out of compliance with federal law.

DISCUSSION: **Senator Burgoyne** remarked after hearing testimony, he was comfortable in voting.

MOTION: **Senator Burgoyne** moved to send **H 421** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 423 **Relating to Athlete Agents. Rob McQuade**, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), stated this bill is the result of the recommendations made in the report on the 2019 Licensing Freedom Act Executive Order. The amendments will remove the registration requirements and references to the IBOL, while leaving in place protections for student athletes and Idaho's education institutions. There are currently 33 actively registered athlete agents in Idaho, none of whom have an Idaho address. No disciplinary action has been pursued in the last five years and the IBOL has not denied issuance of a license. **Mr. McQuade** remarked all but one of those registered are also registered with a professional league players association, such as the National Football League Players Association or the Major League Baseball Players Association. If an agent who engages in unlawful conduct reflecting on his or her fitness to serve as an agent is subject to discipline by one of those associations, they would also be putting their

professional certification at risk. This legislation will leave in place the requirements for agents to protect student athletes and the Idaho colleges and universities they represent.

Mr. McQuade indicated there is no impact to the General Fund because this agency operates solely on dedicated funds. There is no impact to the IBOL dedicated fund since the proposed legislation will remove the administrative duties performed by the IBOL.

MOTION: **Senator Guthrie** moved to send **H 423** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 25, 2020. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 424 **Relating to Barbers and Cosmetologists.** **Rob McQuade**, Legal Counsel, Idaho Board of Occupational Licenses (IBOL), gave an overview of this legislation. He indicated this bill will streamline requirements by reducing redundancy, expand apprenticeship opportunities, and remove the haircutter license. This bill expands apprenticeships to the field of electrology. A charitable works exception is created and an exemption is added allowing visual arts participants to perform barber-styling or cosmetology services. This legislation removes the barrier that applicants submit a passport photo with their application. Language is removed for "good moral character" and replaced with more certain language.

Mr. McQuade indicated there is no impact to the General Fund because the IBOL operates solely on dedicated funds. There is no impact to the IBOL dedicated fund since the number of IBOL Board meetings held each year will not be altered, require more services to be provided by the IBOL Board, or change any fee schedules.

MOTION: **Senator Guthrie** moved to send **H 424** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 398 **Relating to the Idaho Elevator Safety Code Act.** **Representative Raymond** gave an overview and outlined the changes in the bill. He pointed out the legislation adopts standards necessary for effective enforcement of Idaho Code, Chapter 86, Title 39, including the American Society of Mechanical Engineers (ASME) A17.6 Standard for Elevator Suspension, Compensation, and Governor Systems; ASME A17.7 Performance-Based Safety Code for Elevators and Escalators; and ASME A17.8 Standard for Wind Turbine Tower Elevators. The ASME A17.6 Standard for Elevator Suspension, Compensation, and Governor Systems and ASME A17.7 Performance-Based Safety Code for Elevators and Escalators are standards that are included in rule but are not included in Idaho Code § 39-8614. **Representative Raymond** noted that without adoption of A17.8 Standard for Wind Turbine Tower Elevators, the state will not have standards to use in regulating these units. The original safety code A17.1 has become so large and complicated that codes A17.6, A17.7, and A17.8 have been broken out as "stand alone" safety codes for more clarity and understanding.

Representative Raymond stated language was deleted because it was very restrictive and prohibited the use of manufacturer's manuals and procedures guides, which should be the gold standard to understanding the workings of equipment being inspected.

Representative Raymond described the removal of the ASME 17.2 Guide for Inspection of Elevators, Escalators, and Moving Walks and the ASME Safety requirements for Personnel Hoists and Employee Elevators for Construction and Demolition of Operations from Idaho Code § 39-8614. This section requires compliance with the A17.2 Guide for the Inspection of Elevators, Escalators, and

Moving Walks. He said the ASME did not design the guide to have the force and effect of law and the guide should be used as a reference document instead. This standard is obsolete and the IDBS does not use this for enforcement. Safety requirements for temporary hoists and elevators were deleted because that is not under state purview. These particular pieces of equipment are by definition temporary and are under the Occupational Safety and Health Administration's oversight.

Representative Raymond stated the legislation clarifies the correct titles of several standards in Idaho Code § 39-8614 and the definition of a qualified elevator inspector in Idaho Code § 39-8603.

Representative Raymond indicated this legislation will not have a fiscal impact on any General or federal funds or the Idaho Elevator Safety Fund because this legislation only clarifies and simplifies Idaho Code Chapter 86, Title 39, and adopts standards that are substantially similar to those that previously applied.

DISCUSSION: A discussion ensued among Committee members regarding how a wind turbine works with an elevator.

TESTIMONY: **Gary Barnes**, Industrial Safety Program Manager, Idaho Division of Building Safety (IDBS), explained that a wind turbine generates power, which is then sent to a transformer. Power has to be generated from other turbines on the grid so no elevator would malfunction.

MOTION: **Vice Chairman Agenbroad** moved to send **H 398** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 416 **Relating to Banks.** **Salvador Cruz**, Senior Commissioned Financial Institutions Examiner, Idaho Department of Finance (IDOF), indicated the purpose of this legislation is to amend a provision to allow banks to act as a custodian or fiduciary for the purpose of offering tax-advantaged savings plans. The amendment will clarify the authority of banks to offer all tax-advantaged savings plans qualified under the Internal Revenue Code and the Idaho Income Tax Act (IITA), and clarify that banks may act as a fiduciary for the limited purpose of tax-advantaged savings plans specified by the IITA.

Mr. Cruz noted there will be no fiscal impact to the IDOF State Regulatory Fund. The provisions of this legislation will require no additional resources of the IDOF and will have no impact on IDOF revenues.

MOTION: **Senator Thayn** moved to send **H 416** to the floor with a **do pass** recommendation. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

H 417 **Relating to Endowment Care Cemetery Act.** **Patty Highley**, Senior Securities Analyst, Idaho Department of Finance (IDOF), indicated the purpose of this legislation is to amend the Idaho Endowment Care Cemetery Act of 1963 to include the currently required fee of \$150 for registration and annual renewal of endowment care cemeteries. There is no fiscal impact to the IDOF Regulatory Fund associated with this proposed legislation. The provisions of this proposed legislation fix the amount of an existing fee, which was formerly set by rule. The legislation does not require additional resources of the IDOF and will have no impact on IDOF revenues.

MOTION: **Senator Burgoyne** moved to send **H 417** to the floor with a **do pass** recommendation. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

H 418

Relating to Uniform Securities Act. **Patty Highley**, Senior Securities Analyst, Idaho Department of Finance (IDOF), reported the purpose of the legislation is to update regulations to the Securities Exchange Act (SEA) of 1934, the Securities Act (SA) of 1933, and the Investment Advisers Act (IAA) of 1940. Limitations are addressed to state authority under the SEA of 1934 and the IAA of 1940, and exemptions from agent registration for federal covered securities under the SA of 1933. There is no fiscal impact to the IDOF Regulatory Fund associated with this proposed legislation. The provisions of this proposed legislation fix the amount of an existing fee, which was formerly set by rule. The legislation does not require additional resources of the IDOF and will have no impact on IDOF revenues.

DISCUSSION: **Senator Burgoyne** asked if the changes were done because of federal law or to reference different sections of law. **Ms. Highley** responded the federal government has renumbered and reclassified regulation offerings and that is why the changes were made in the statute.

MOTION: **Senator Burgoyne** moved to send **H 418** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:22 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary