

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 14, 2013

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Kenyon (Martin), Lakey, Schmidt and Durst

**ABSENT/
EXCUSED:**

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 Tippetts** called the meeting to order at 1:30 p.m.

INTRODUCTION OF PAGES: **Chairman Tippetts** introduced the new Senate Page, Megan Johnson. He asked her to tell the committee a little about herself. **Miss Johnson** said she was from Parma and was excited to be at the Senate. **Chairman Tippetts** said a few words about Chace Tolman, outgoing Page. He thanked Chace for his service to the Senate and called him to the podium to explain to the committee what he had learned. **Mr. Tolman** said he had learned so much and he was grateful for the opportunity to learn. **Chairman Tippetts** presented Chace with a letter of recommendation from the committee, a card and a Senate watch.

PASSED GAVEL: Chairman Tippetts passed the gavel to Vice Chairman Patrick to introduce the presenters for the review of the fee rules being heard.

DOCKET NO. 07-0312-1201 **Fee Rules Review - DIVISION OF BUILDING SAFETY - 07.03.12 - Rules Governing Manufactured or Mobile Home Installations.**

Steve Keys, Deputy Administrator of Operations, said the amendment to the rules was necessary to align them with statutory changes that were approved last year. He said those statutory amendments were made to ensure compliance with mandatory federal Housing and Urban Development (HUD) requirements regarding inspections of installations and tracking of manufactured homes. The Division of Building Safety serves as the State Administrative Agency (SAA) responsible for enforcing the federal installation standards in Idaho and has obligated itself by agreement with HUD to ensure that all installations in the state will be inspected. Amendments would require an inspection of the installation of all new and used manufactured and mobile homes by either the Division of Building Safety or the local city or county having jurisdiction. In compliance with statute, criteria is also set forth for approval by the Division of an installation inspection program by local jurisdictions, as well as training criteria for all inspectors.

He said the recommendation would be that the pending rule be adopted as proposed. The permit fee for installation of a single section unit would be \$150; the permit fee for installation of a double section unit would be \$200; and the permit fee for installation of a home consisting of more than two sections would be \$250.

Vice Chairman Patrick asked for clarification if the fees were for homes or mobile homes. **Mr. Keys** said the fees were only for mobile homes. **Senator Schmidt** asked if there had been any voluntary withdrawals by cities or counties from the program. **Mr. Keys** said the provision for a voluntary withdrawal was inserted into the language in case a city or county wanted to withdraw. The rule was too new to have any city or county withdraw. **Senator Durst** and **Mr. Keys** had a conversation

regarding inspection fee schedules and the costs involved. They discussed costs of inspections relative to distance requirements. **Senator Durst** and **Mr. Keys** talked about the definition of a manufactured home and a non-site built home and how the rule applied to manufactured homes or mobile homes, but not modular. **Senator Lakey** and **Mr. Keys** discussed the fact that there were approximately 12 state inspectors scattered around the state who were certified residential building inspectors doing 100 inspections a year. **Mr. Keys** said the jurisdiction of the Building and Safety Department was for modular housing.

Mr. Keys said there would be no impact on the general fund. The fees imposed for installation permits were designed to cover the costs of the inspection service, and as such, were intended to provide revenue in line with incurred costs. The fees and costs incurred would be reviewed on an ongoing basis to assure they were appropriate. Should Idaho not provide the installation inspections, the federal government would provide the service at what would be anticipated to be a higher cost to the consumer.

The rule change would also require an installation tag for all new manufactured homes in order that their location and ownership may be tracked. Finally, the rule would establish the minimum requirements of each installation inspection that was performed.

MOTION: **Senator Schmidt** moved to approve **Docket No. 07-0312-1201**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 07-0501-1201 **Fee Rules Review - DIVISION OF BUILDING SAFETY - 07.05.01 - Rules of the Public Works Contractors License Board.**

Steve Keys Deputy Administrator of Operations, said in 2012, a new classification of Public Works Contractor Licensing (PWCL) was created in Section 54-1904, Idaho Code, called a "Class CC" license. This new class of license was brought forward in response to requests from contractors and public agencies in an attempt to broaden the base of qualified contractors available to bid on construction projects in the \$200,000 to \$400,000 range. Many contractors wanted to be able to bid on projects in this range, but were unable to qualify for the Class B license due to financial requirements. The Class CC license allows a contractor to perform work on public works involving an estimated cost of not more than \$400,000. Section 54-1904 allows the Public Works Contractor Licensing Board to establish rules to determine in which classification a contractor is qualified to engage in public works construction, according to each applicant's responsibility and scope of operations. Accordingly, by rule, all classifications have minimum financial requirements and amendments must be made to include the new Class CC. Additionally, Section 54-1904 only establishes a maximum initial and renewal fee for each classification of license; accordingly, actual fees for the Class CC license still must be established in rule. Finally, he said, the rule section related to financial statements submitted with an application for licensure, must account for the new CC classification of licensure. The rulemaking establishes minimum financial requirements for obtaining and maintaining a Class CC license in the amount of \$75,000 of net worth and \$25,000 of working capital. Additionally, it establishes an initial and renewal license fee for the Class CC license in the amount of \$125. It requires financial statements submitted with an application for a Class CC license to be accompanied by an independent audit report. The report must be reviewed or compiled by a certified public accountant.

MOTION: **Chairman Tippetts** moved to adopt **Docket No. 07-0501-1201**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0144-1201 **Fee Rules Review - DEPARTMENT OF INSURANCE - 18.01.44 Schedule of Fees, Licenses and Miscellaneous Charges.**

Tom Donovan, Deputy Director, said this fee rule added vendor of portable electronics insurance as a new type of limited lines insurance producer license and the requisite fees to the Department of Insurance (DOI)'s general fee rule, pursuant to House Bill 649 (effective 7/1/2013). This rule increases fees for fingerprints as a result of increased costs from the Idaho State Police (ISP). He said the DOI conducted negotiated rulemaking by publishing the Notice of Intent to Promulgate Rules on July 4, 2012 in the Administrative Bulletin. The DOI also posted this notice and a draft of the rulemaking on its website as provided by the notice. There was a public meeting held on July 19, 2012 and no one attended the meeting other than DOI personnel. The DOI received no comments or concerns about the rule as drafted.

Mr. Donovan said there were two rule changes. One was for the original license application for a vendor of portable electronics insurance, a type of limited lines producer, engaged in portable electronics transactions at more than ten locations in the State of Idaho. The fee is \$1,000. For a vendor engaged in portable electronics transactions at ten or fewer locations in the state of Idaho, the fee is \$100.

In the House Business Subcommittee review of this rule, it was noted that the rule referred to "portable electronics" in Subsection j, but the singular "electronic" in the other places. During that sub-committee hearing, the DOI confirmed with Mr. Hawley from the Office of Administrative Rules, that they can correct the error by conforming to the statutory term, "electronics" without additional rulemaking.

For license renewal, a vendor of portable electronics insurance engaged in portable electronics transactions at more than ten locations in the State of Idaho, the fee would be \$500. For a vendor engaged in portable electronics transactions at ten or fewer locations in the State of Idaho, the fee would be \$100.

Mr. Donovan said the second change was for fingerprint processing fees, currently \$60, increased to an amount not to exceed \$80. He said this change followed a rule change by the ISP last year where the fee changed from \$10 to \$25. The increase will be phased in over time. The DOI was seeking an increase of up to \$80 to provide for possible additional costs recognizing that only some portion of its fee goes to the Idaho State Police (ISP). But additional amounts go to the FBI, testing and administration vendors. The fee would be administered in a revenue neutral manner.

Senator Guthrie and **Mr. Donovan** had a discussion relating to the rationale as to how the amounts were determined for the fee of \$1,000 for more than ten locations for a vendor of portable electronics in Idaho as opposed to \$100 for less than ten locations. They talked about how the determination was set forth in the statute and how frequently the larger fee would apply. They also discussed the fact the license would be a business license with a requirement for training and for the vendor to keep a list of locations within the state where the electronic insurance was available.

Chairman Tippetts asked for a clarification on portable electronics insurance offered when purchasing a portable electronic device. **Mr. Donovan** said there was a provision in the insurance code that exempted some service contracts from the regulation, as insurance and those kinds of protections would fall into the category of normal wear-and-tear, such as a warranty. The portable electronics insurance included risk of loss for the device as well as theft, which were not included in the service contract exemption.

Senator Goedde said he wanted to share a different perspective of 1,000 locations at a cost of \$1 per location or nine locations at the cost of \$10 a location. He didn't think \$1,000 would be considered a problem for larger vendors.

Vice Chairman Patrick made a comment that the fingerprinting charges seemed to

be quite high, even though the processing costs had gone up with the state police. **Mr. Donovan** explained the increases in processing costs. Prior to last summer, he said, the DOI charged \$60 for a fingerprint fee of which \$8.75 was retained by the DOI. Currently, the amount retained has gone down to \$4.00 because of the increased costs from the ISP, but a decreasing cost from the Federal Bureau of Investigation (FBI). Effective July 1, 2013, the DOI will be paying out to others \$2.50 more than the \$60, so the total fees would be \$62.50, or a loss for the DOI. **Mr. Donovan** said building in flexibility was a way to deal with changes that may come in the future that would be difficult to predict. **Vice Chairman Patrick** and **Mr. Donovan** had a discussion about phasing in the increase in fees over a period of time.

MOTION: **Senator Goedde** moved to adopt **Docket No. 18-0144-1201**. **Chairman Tippetts** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 24-0401-1201 **Fee Rules Review - BUREAU OF OCCUPATIONAL LICENSES - 24.04.01 - Rules of the Idaho Board of Cosmetology.**

Roger Hales, Administrative Attorney, said the Board of Cosmetology made changes in its fee schedule during the 2012 session. This fee change, in a separate section, is necessary to be consistent with the prior change. Changes were also made to the Board's law during the 2011 session that replaced the term "student instructor" with "instructor trainee." The proposed change updates the new title in the rules. Finally, changes were being made to clarify that animals allowed in a cosmetology shop must comply with the American with Disabilities Act's (ADA) definitions.

The fee schedule in these rules was changed during the 2012 session and the \$10 fee shown in Section 176 was being eliminated to be consistent with the prior rule change. There is no impact on the general or dedicated funds as the fee is not being assessed.

MOTION: **Senator Durst** moved to approve **Docket No. 24-0401-1201**. **Senator Kenyon** seconded the motion. The motion carried by **voice vote**.

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

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 2:08 p.m.

Senator Tippetts

Chairman

Linda Kambeitz

Secretary