

MINUTES
HOUSE EDUCATION COMMITTEE

- DATE:** Friday, March 08, 2013
- TIME:** Upon Adjournment of the House
- PLACE:** Room EW41
- MEMBERS:** Chairman DeMordaunt, Vice Chairman Nielsen, Representatives Shepherd, Wills, Bateman, Boyle, Agidius, Clow, Gestrin, Harris, Horman, Mendive, VanOrden, Pence, Kloc, Ward-Engelking
- ABSENT/
EXCUSED:** None
- GUESTS:** Brian Duncan, Minidoka School District; Karen Echeverria, Idaho School Boards Association (ISBA); Bert Marley, Paul Stark, Penni Cyr and Irene Keefer, Idaho Education Association; Jason Vlcek, Payette teachers; Mandy Simpson, Nampa Education Association; Luci Willits, State Department of Education; Marilyn Whitney, State Board of Education; Dan Goicoechea, Office of the State Controller; Linda Clark, Joint School District #2
- Chairman DeMordaunt** called the meeting to order at 8:25 a.m.
- RS 22239:** **Chairman DeMordaunt** stated that **RS 22239** replaces **RS 22175**. It contains a clarification that would allow institutions such as Idaho State University to continue working with state agencies for their insurance needs.
- MOTION:** **Rep. Pence** made a motion to introduce **RS 22239**. **Motion carried by voice vote.**
- H 259:** **Karen Echeverria**, Idaho School Boards Association (ISBA), presented **H 259**. She said **H 259** sets out requirements for voluntary and involuntary leaves of absence, and clarifies how certain situations would be handled, such as when there is a court order prohibiting two employees from being in the same building, or when there is a criminal charge, an investigation, or other situation that would necessitate an employee taking a leave of absence. It would provide for the orderly operation of district business in association with the financial limitations faced by public schools.
- Responding to questions, **Ms. Echeverria** explained the ISBA's annual convention was held in November. Employees would only be put on unpaid leave if there were criminal charges involved. A criminal court order disallowing an employee from being around children would necessitate an employee taking unpaid leave; however, an arrest in and of itself would not, unless the employee was in jail and unable to fulfill the terms of his or her contract.
- Brian Duncan**, Minidoka School District, spoke **in support** of **H 259**. He cited two situations in his district during which employees committed crimes and the district was not able to take any action without the threat of lawsuits. He said the school district should not be responsible for paying employees who cannot meet the terms of their contracts, while also paying substitute teachers.
- In response to questions, **Mr. Duncan** said if this law had been in place during the difficulties faced by his district, the school board could have taken action.
- Paul Stark**, Idaho Education Association (IEA), spoke **in opposition** to **H 259**. He said this law assumes an employee's guilt before the employee is proven guilty or innocent in a court of law. He stated that if an employee is falsely accused of a crime, that employee could have his or her livelihood removed before innocence can be proven. He objected to the language, "dual court orders", and stated that he does not understand what is meant. He also said that he objects to the lack of a sunset clause.

Responding to questions, **Mr. Stark** said if an individual was accused of a crime, he suggested putting that employee's salary into an escrow account. If the employee was found innocent of the allegations against him or her, the employee could then receive the back pay, less costs to pay a substitute. He acknowledged that the cost of not putting a restraining order or injunction in place could be devastating, if indeed the charges being leveled are true. He is not aware of any organizations that keep escrow accounts for employees who are on unpaid leave.

Ms. Echeverria responded to questions. She said school districts and taxpayers should not be responsible for paying employees who cannot comply with the terms of their employment contracts, while also paying substitutes. It would be difficult to consider how to pay an employee who was acquitted of a crime after having been on unpaid leave, because of costs such as substitute pay, insurance and retirement expenses. If an employee becomes able to fulfill the terms of his or her contract after an unpaid leave of absence, he or she would be reinstated. This legislation would not prevent wrongfully accused employees from entering negotiations with their districts. This legislation would not allow school districts to terminate contracts; it would allow districts to place employees who are unable to fulfill the terms of their contracts on unpaid leave until those employees could fulfill the terms of their contracts.

**ORIGINAL
MOTION:**

Rep. Boyle made a motion to send **H 259** to the floor with a **DO PASS** recommendation.

Responding to additional questions, **Ms. Echeverria** stated that when an employee is able to comply with the conditions of his or her employment contract, that employee will be reinstated.

Rep. Wills spoke in support of the motion saying this is good legislation, however, he has seen people pay high prices when emotions overcome common sense.

Rep. Horman spoke in support of the motion. **Rep. Nielsen spoke in support** of the motion saying he is concerned about someone being treated as guilty before guilt is proven, however, he will support the bill. He objected to the language "other designee" in the bill and would like a specific individual to be named.

**SUBSTITUTE
MOTION:**

Rep. Kloc made a substitute motion to send **H 259** to General Orders, with a committee amendment to establish an escrow account to pay back wages that were lost during an absence, should an accused employee be found innocent of the charges against him or her.

Rep. Ward-Engelking said both children and individuals can be protected, and she **supports** the substitute motion to send **H 259** to General Orders. **Rep. Harris spoke in opposition** to the substitute motion saying the proposed amendment will not solve the problem as discussed in committee. **Rep. Kloc** cited the possibility that students could decide to "get even" with a teacher and fabricate charges of sexual misconduct. If the court system became involved and the teacher faced criminal charges, (s)he should not be on unpaid leave while innocent.

Rep. Horman called for the question.

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

A roll call vote was requested on the substitute motion to send **H 259** to General Orders. **Motion failed on a vote of 3 AYE, 13 NAY. Voting in favor** of the motion: **Reps. Pence, Kloc and Ward-Engelking. Voting in opposition** to the motion: **Reps. Nielsen, Shepherd, Wills, Bateman, Boyle, Agidius, Clow, Gestrin, Harris, Horman, Mendive, VanOrden, and Chairman DeMordaunt.**

**VOTE ON
ORIGINAL
MOTION:**

Chairman DeMordaunt called for a vote on the original motion to send **H 259** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Boyle** will sponsor the bill on the floor.

H 260: **Karen Echeverria**, Idaho School Boards Association (ISBA), presented **H 260**. She explained **H 260** will continue to allow for a mediation process and will provide for a negotiations process between school personnel. Language has been added to repeal and reinstate sections of this bill in case it does sunset.

MOTION: **Rep. Bateman** made a motion to send **H 260** to the floor with a **DO PASS** recommendation.

In response to questions, **Ms. Echeverria** said negotiations are not limited to salary and benefits.

Brian Duncan, Minidoka School District, **spoke in support** of **H 260**. He said school board members are required by Statute to be responsible for functions of school districts. He said this flexibility is needed in order to prioritize increasingly scarce resources.

In response to questions, **Mr. Duncan** said his district follows an intraspace bargaining process that brings together all the interests who would like to bargain. Solutions are narrowed down until agreements can be reached. Including patrons in the bond/levy process has been helpful. He said generally the last offer is the best offer.

Penni Cyr, Idaho Education Association (IEA), **spoke in opposition** to **H 260**. She said it eliminates valuable tools that have been part of successful collective bargaining for many years. She stated collective bargaining gives teachers a voice. Ms. Cyr indicated that giving the power to impose a "last, best offer" to the school board would create an uneven playing field and would cause the process to become more convoluted. She said the time frame created by this bill is too tight. Bargaining ensures that career education employees have respected voices in their workplaces and are involved in problem-solving.

Responding to questions, **Ms. Cyr** said this bill gives an unfair advantage to the trustees, who could make an offer and then simply wait until the deadline. She objected to the time frame proposed by this legislation.

Jason Vleck, citizen and teacher, **spoke in opposition** to **H 260**. He said negotiating is a give-and-take process. He explained that last year he assisted in the Payette School District's salary and benefits negotiations. He said teachers are interested in negotiating reduction in forced policies and other issues that have become open to their participation. He cited the current budget problems and said they impact negotiations. He is not in favor of an "arbitrary date".

In response to a question, **Mr. Vleck** said he was not involved in negotiations before last year.

Mandy Simpson, Nampa School District, **spoke in opposition** to **H 260**. She said last year, negotiations in her district began in March and due to the deadline, financial questions were not able to be adequately addressed. The June deadline makes that window of time for negotiating very small. Each teacher's first priority is to educate children and most of their time is spent in their classrooms, not negotiating.

Dr. Linda Clark, Joint School District #2 (Meridian School District), **spoke in support** of **H 260**. She said it provides tools to manage the largest part of school districts' budgets: salary and benefits for teaching staff members. Without a date-certain for negotiations to end, the budget cycle cannot be completed in a timely manner that will meet the needs of staff and students. School districts' budgets are and can be amended throughout the year; the salary and benefits are such a large portion of their budgets, they must know what those numbers will be.

Dr. Clark, responding to questions, said budget amendments must be approved individually by school boards and must be posted.

Rob Winslow, Idaho Association of School Administrators (IASA), **spoke in support of H 260**. He said the IASA believes this is an effective tool.

Paul Stark, Idaho Education Association (IEA), made a statement on behalf of **Darin Gonzales**, a Kimberly High School math teacher. He said this legislation will not make negotiations easier and would strip the process down to an informal meeting. He asked the Legislature to reject the bill because teachers "are not the enemy" and are dedicated to their students.

Ms. Echeverria said resolutions and permanent positions have been in place for over 20 years to address collective bargaining and labor issues, and that negotiating without a deadline has not worked well.

In response to questions, **Ms. Echeverria** said a Memorandum of Understanding (MOU) was drafted and signed to ensure that all parties would negotiate in good faith and gather sound data.

Rep. Bateman spoke to his motion saying school boards should have the final word in how schools operate, however, teacher input is important. **Rep. Ward-Engelking spoke in opposition** to the motion saying the process that is in place works well and does not need to be changed. **Rep. Horman spoke in support** of the motion, stating that allowing school boards to make responsible decisions on a time line is important. She said the State budget for salary and benefits for teachers is almost \$900,000,000 and she considers that a lot to talk about. **Rep. Pence spoke in opposition** to the motion saying the last, best offer does not provide a level playing field. **Rep. Clow spoke in support** of the motion saying school boards do not have a level playing field. Tax levies and certain budget decisions are made for them. When budgets are amended, it is generally to bring things into alignment.

**ROLL CALL
VOTE ON
MOTION:**

A roll call vote was requested on the motion to send **H 260** to the floor with a **DO PASS** recommendation. **Motion carried by a vote of 12 AYE, 3 NAY, 1 ABSENT/EXCUSED. Voting in favor** of the motion: **Reps. Nielsen, Shepherd, Bateman, Boyle, Agidius, Clow, Gestrin, Harris, Horman, Mendive, VanOrden and Chairman DeMordaunt. Voting in opposition** to the motion: **Reps. Pence, Kloc and Ward-Engelking. Rep. Wills** was Absent/Excused. **Rep. VanOrden** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 10:41 a.m.

Representative DeMordaunt
Chair

Mary Tipps
Secretary