

## MINUTES

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DATE:** Tuesday, January 24, 2012

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Andreason, Vice Chairman Malloy(McKague), Senators Cameron, Goedde, Smyser, Tippetts, Johnson, Stennett, and Schmidt

**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.

**Chairman Andreason** called the meeting to order at 1:32 p.m.

**GUBERNATORIAL APPOINTMENT TO BE HEARD** Appointment of **John Michael Brassey** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017. **Mr. Brassey** stated that this is his third reappointment as the Chairman of the Idaho Personnel Commission. This is a five member Commission that hears appeals on certain personnel issues for state employees. The Commission receives on average 25 appeals every year, of which, three or four of those appeals make their way to the Commission. The Commission convenes only when they have cases to render a decision. **Mr. Brassey** stated he is an attorney and graduated from the University of Idaho. He has served the State as Deputy Attorney General, Deputy Director of the Department of Finance, Head of the Attorney General Business Regulations Commission, Director of the Department of Insurance, and Administrator, Financial Management. **Senator Smyser** asked what **Mr. Brassey's** most important quality that he contributes to the Commission? **Mr. Brassey** replied that he is the only lawyer on the Commission. The Chairman of the Commission deals with all of the procedural issues with the courts and their deadlines. His familiarity with court procedures has made it far more expedient for the Commission's cases. When he was initially appointed the chairman an average appeal hearing would be one year out; now from the time the appeal is issued the turnaround is 30 days. **Senator Schmidt** asked **Mr. Brassey** to give an example of the type of cases that come to their commission. **Mr. Brassey** described an example of a terminated employee's appeal process and how it would flow through the Commission.

**GUBERNATORIAL APPOINTMENT TO BE HEARD** Appointment of **Peter J. Black** to the Idaho Personnel Commission to serve a term commencing July 1, 2011 and expiring July 1, 2017. **Mr. Black** stated that this is his second reappointment to the Idaho Personnel Commission. **Mr. Black** is a retired educator and has served on the Idaho Commission for Libraries, Idaho House of Representatives Assistant Minority Leader, and is Chairman of the Pocatello Park's and Recreation Advisory Council. **Senator Smyser** asked **Mr. Black** how is the Commission functioning? **Mr. Black** stated that **Mr. Brassey** runs a very good Commission with professionalism and procedural accuracy. **Senator Tippetts** added that he was pleased with the quality of individuals that are serving on this Commission.

**Idaho Department of Finance  
Rules Review**

**DOCKET NO.**

**12-0110-1101**

**Rules Pursuant to the Idaho Residential Mortgage Practices Act, Michael Larsen, Consumer Finance Bureau Chief, Idaho Department of Finance,** stated the amendments to these rules are primarily housekeeping. The amendments consist of some date changes, references to federal law and regulations, mainly, The Real Estate Procedures Act (RESPA), Truth in Lending Act and Regulation Z. Periodically the Department needs to update references in their rules, by specific date. The most recent date prefaced in the rules was January 1, 2009 and they amended it to January 1, 2011. In addition to those date changes, on page 98 of the rule, is a paragraph that is eliminated. The reason for the paragraph's elimination is that it stated that the use of the Nationwide Mortgage Licensing System was optional for mortgage licensee's. In 2008 congress passed a law called the Safe Act that requires the use of Nationwide Mortgage Licensing System for licensing applications and for license renewals. Idaho's Law, Mortgage Practices Act, reflects that requirement so this is to update the rules to be consistent with state law. The new number two paragraph on page 98, that ends "licensing through the MLSR," must use the MLSR to manage their licenses.

**MOTION:**

**Senator Tippetts** moved, seconded by **Senator Malloy**, to adopt Docket No. 12-0110-1101. The motion carried by **Voice Vote**.

**Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors  
Rules Review**

**DOCKET NO.**

**10-0101-1101**

**Rules of Procedure, Dave Curtis, P.E., Executive Director, Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors,** said there are four proposed changes to this rule. The first allows individuals to select retired status at any time upon request. That change is shown on page 76 of your 2012 Pending Rule Book. The second change on page 77 amends the examination application submittal deadlines to accommodate converting some examinations to computer-based format. The third change on page 78 eliminates the need for an engineer intern and land surveyor intern applicants to provide references on their examination application. That requirement was eliminated in statute by the Legislature last year, so this change in Administrative Rule is necessary to conform to the statute. The fourth and last amendment is to adopt national standards for the evaluation of nonaccredited engineering programs which changes are shown on pages 78 through 84. **Senator Tippetts** asked for explanation on the purpose of maintaining a list of individuals who are on retired status? **Mr. Curtis** replied the statute requires that the Board has a retired status and it is a research tool because they are not allowed to practice if they are on retired status. However, they can reactivate their active status upon the payment of renewal fees.

**MOTION:**

**Senator Goedde** moved, seconded by **Senator Schmidt**, to adopt Docket No. 10-0101-1101. The motion carried by **Voice Vote**.

10-0102-1101

**Rules of Professional Responsibility, Mr. Curtis** advised there are four proposed changes to this rule all on page 88 of the Pending Rule Book. The first change is to provide for an exception to the rule requiring license holders to notify other license holders of the discovery of material discrepancy if the licensee is working in the employ of an attorney as an expert witness. The second change provides for a two-staged process of notification of discovery of material discrepancy, first informally, then in writing, and make notification to the Board optional rather than mandatory if the discoverer does not receive a response that answers the concerns of the discoverer. The third purpose is to reduce from 60 to 20 the number of days which a license holder has to respond to notification of discovery of a material discrepancy by another license holder. The fourth and last purpose of the amendments is to establish a limitation on the amount of time that can pass following discovery of an event for the Board to accept an affidavit of complaint. **Senator Goedde** asked about Subsection 04. on page 88. Obligations to Communicate, in the last sentence the Board changed "shall" to "may" what is the reason for this language change? **Mr. Curtis** responded notifications to the Board of discovery of what may or may not be a material error, discrepancy or omission an opportunity to decide for him or herself whether it is really an error or omission or if it is just a difference of opinion. There have been a number of cases where individuals have felt obligated because they didn't receive what they thought was a satisfactory explanation and have later decided that they were not sure that it was a material error, discrepancy or omission so much as a simple disagreement.

**Senator Stennett** asked for clarification, in paragraph 04., the discrepancy response time is be changed from 60 calendar days to two 20 calendar day periods? How does this procedurally help to change this timing? **Mr. Curtis** responded that 60 days is a long time for the public to have to wait for a survey where another surveyor discovers a discrepancy. A developer or citizen wants their survey recorded in a timely manner. For these individuals to have to wait two whole months for the dispute to be remedied seemed inordinately lengthy. The Board recommended a 20 day time frame for the initial verbal notification and a subsequent 20 days is to allow anyone to have 20 days in order to respond to a civil law suit. The Board deemed this sufficient time to respond to a law suit and also sufficient time for one professional to respond to another in the matter of these concerns. **Senator Johnson** asked how to you establish the first 20 day period if it is not in writing? **Mr. Curtis** replied often times the informal contact is not just a telephone call but an E-mail dealing with the issue.

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Stennett**, to adopt Docket No. 10-0102-1101. The motion carried by **Voice Vote**.

10-0104-1101

**Rules of Continuing Professional Development, Mr. Curtis** stated the purposes of the amendments are numerous. The first is to clarify that routine job assignments are not considered qualified activities for continuing professional development purposes. That change is shown on page 92. The second change, on page 92, would allow newly licensed persons to carry forward professional development hours earned during the biennium prior to the first renewal following the issuance of the license. On page 93, you will find the third and fourth changes to the rule. The third purpose is to allow continuing professional development credit for authoring each chapter of a book. The fourth purpose, on page 94, will allow professional development hours for peer review of published technical or professional papers, articles or book chapters. The fifth purpose is to extend the same exemption from compliance to civilians deployed with the military as is extended to the military. The sixth and last purpose is to allow license holders who are residing outside the United States to earn the required professional development hours upon their return to the United States. **Senator Cameron**

requested clarification on licensees outside of the United States issue stated in your sixth rule change? **Mr. Curtis** explained they had an individual who was employed by a private contractor and deployed with the military. The Board thought there might be other individuals who find it difficult to meet the continuing professional development requirements when they are out of the country. **Senator Cameron** asked would it be the Board's intention that their license would still be active and be able to perform the duties of their license, they would just be exempt from the continuing education requirements? **Mr. Curtis** replied the Board's intent would be that their license would remain active and that the continuing education requirements would be waived while they were outside of the United States.

**MOTION:** **Vice Chairman Malloy** moved, seconded by **Senator Cameron**, to adopt Docket No. 10-0104-1101. The motion carried by **Voice Vote**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Cameron**, to approve the minutes of January 17, 2012. The motion carried by **Voice Vote**.

**MOTION:** **Senator Johnson** moved, seconded by **Senator Cameron**, to approve the minutes of January 19, 2012. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:10 p.m.

---

Senator Andreason  
Chairman

---

Carol Deis  
Secretary