

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Wednesday, January 25, 2012

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Black, Vice Chairman Henderson, Representative(s) Collins, Bilbao, Chadderdon, Crane, Patrick, Bayer, Palmer, Thompson, Barbieri, DeMordaunt, Guthrie, Batt, Smith(30), Rusche, Cronin

**ABSENT/
EXCUSED:** None.

GUESTS:

Chairman Black called the meeting to order at 1:35 p.m.

MOTION: **Rep. Bilbao** made a motion to approve the minutes of January 23. **Motion carried by voice vote.**

MOTION: **Rep. Chadderdon** made a motion to approve the minutes of the Thompson Subcommittee for January 19, 2012. **Motion carried by voice vote.**

MOTION: **Rep. Palmer** made a motion to approve the minutes of the Batt Subcommittee for January 19, 2012. **Motion carried by voice vote.**

RS 20773: **Roger Hales**, an attorney representing the Idaho Real Estate Appraisers Board, Bureau of Occupational Licenses, presented **RS 20773**. Mr. Hales said this legislation amends the grounds upon which the Board can base an action against a licensee who violates a disciplinary order. Currently the Board does not have authority to take any further action in these cases. The legislation also deletes language referring to reciprocity. Mr. Hales explained that the Board will now look at individual applications for licensing to see whether they meet Idaho's requirements but will not require a reciprocity agreement.

Responding to committee questions, **Mr. Hales** said if a licensee violates the Board's rules, he or she can be disciplined following an investigation and hearing. The Board may fine the licensee or mandate additional education, but if the licensee does not comply with the disciplinary action, the Board has no way of enforcing the order. This will add language to authorize them to take further action. This in no way compromises a person's right to appeal, however. Mr. Hales said under the Administrative Procedures Act a licensee can ask the Board to reconsider any action taken, and after that they would still have recourse to a judge for further appeal.

Clarifying the reciprocity portion of the legislation, **Mr. Hales** said out-of-state licensees were not able to be licensed in Idaho if this state did not have a reciprocity agreement with their home state. Under the new provision, Idaho will be able to license applicants based on their qualifications rather than on the existence of a reciprocity agreement. This will actually increase the ability of out-of-state licensees to come into Idaho and be licensed.

MOTION: **Rep. Cronin** made a motion to introduce **RS 20773**. **Motion carried by voice vote.**

RS 20776: **Bill Deal**, Director of the Department of Insurance, presented **RS 20776**. Mr. Deal explained that third party administrators (TPAs) are entities who collect premiums and pay claims for self-funded insurance plans. Current law states that in order for a TPA to list Idaho as its home state, it has to provide two audited financial statements on its initial application, and one audited statement with renewal applications.

This has proven to be a hardship on smaller TPAs because the cost of an audited financial statement can be thousands of dollars. This legislation creates a hardship clause for small TPAs so they can submit unaudited financial statements and post a bond prescribed by the amount of cash they are required to have. Mr. Deal said there is no opposition to this proposal.

Responding to committee questions, **Mr. Deal** said the cost of a \$20,000 surety bond would be less than \$500, whereas the cost of an audit could be several thousand dollars. He said this new provision applies only to small TPAs dealing with private companies but would not apply to school districts who want to be self-insured. Asked whether a TPA's inability to pay for an audited financial statement might be an indication of their not being sound enough to take care of their insured members, Mr. Deal said the financial stability of the plan itself is regulated under a different section of Code; this bill has to do only with the administrator portion.

MOTION: **Rep. Thompson** made a motion to introduce **RS 20776**. **Motion carried by voice vote.**

RS 20812: **Bill Deal**, Director of the Department of Insurance, presented **RS 20812**. He explained that current code requires the Director to send orders and notices by mail or by facsimile transmission. This legislation will allow electronic service of notices, if the parties agree to receive such notices by electronic means.

In response to a committee question, **Mr. Deal** said an example of an "order" that might be issued by the Department is one dealing with the suspension of an insurance agent.

MOTION: **Rep. Collins** made a motion to introduce **RS 20812**. **Motion carried by voice vote.**

RS 20813: **Bill Deal**, Director of the Department of Insurance, presented **RS 20813**. He explained that the Department of Insurance collects various licensing and other fees from insurance companies and agents. Funds collected are deposited and updated daily with the Treasurer's Office through an electronic accounting system. Currently there is a requirement that the Department file a certified report with the State Treasurer on funds collected and submitted. During the Department's audit last year, the auditors suggested this requirement could be eliminated since the funds are tracked electronically. Mr. Deal said the Treasurer's Office has agreed that this is a good change because it will eliminate filing a report that is no longer needed.

MOTION: **Rep. Cronin** made a motion to introduce **RS 20813**. **Motion carried by voice vote.**

RS 20857: **Bill Deal**, Director of the Department of Insurance, presented **RS 20857**. He explained that the Department of Insurance has regulatory authority to administer and review health insurance rates. This legislation will incorporate language containing definitions and standards that are already in the property/casualty section of Idaho Code, namely, to specify that "rates shall not be excessive, inadequate or unfairly discriminatory." The legislation also grants rulemaking authority to the Department. Mr. Deal said insurance companies have granted the Department authority to make certain information available that was previously thought to be proprietary, such as the explanation given for premium rates rising in excess of 10%.

Asked how the Department determines what is "excessive" in terms of premium increases, **Mr. Deal** said companies file a rate book with the Department. Then, as they move to increased rates, the rate book information can be used to determine whether the increases are adequate or inadequate, based on profit/loss statements; another factor they consider is whether they are taking enough money

to pay claims. Mr. Deal said the Department does follow up on complaints from consumers about premium increases. Mr. Deal said the Department does not establish an acceptable operating profit for insurance carriers, relying instead on open competition. If rates do go up more than 10%, the Department is obligated to analyze them to see if the increase is excessive.

In response to committee questions, **Mr. Deal** said the disclosure language on page 6 will bring Idaho into conformity with the Patient Protection and Affordable Care Act. He said the Department needs to maintain its regulatory authority to administer its plans, or the regulation will be turned over to Health & Human Services. He said he does not know at this point whether the Department will retain any authority to regulate rates if Idaho chooses to move to a federal exchange. Some of the information about what a federal exchange will look like and how it will be administered is not known at this time.

Asked whether the Department's regulation of premium increases makes it similar to the Public Utilities Commission, **Mr. Deal** said the Department does not operate like the PUC. He said the Department has been regulating according to its rules and statutes for many years. What is different is that the Affordable Care Act stipulates that any premium increase greater than 10% must be scrutinized to determine whether it is excessive. The analysis may show that the premium increase is necessary in order for the company to remain solvent. Mr. Deal said the Department has an obligation to make sure companies have adequate reserves, adequate rates, good market conduct, and so forth.

Asked whether the Department should have more clearly defined "unreasonably high or inadequate" in the legislation, **Mr. Deal** said the Department implements legislation by administrative rules subject to the approval of the Legislature. He said if any clarifications need to be put in place, they can be effected through the rules process.

MOTION: **Rep. Rusche** made a motion to introduce **RS 20857**.

Rep. Barbieri asked why the Department of Insurance continues to enact rules to comply with the Affordable Care Act (ACA) when it is being challenged in a case currently before the Supreme Court. He also said an attempt to regulate rates is somewhat superfluous since rates will be federally controlled.

Rep. Rusche pointed out that the Appellate Court review in Florida found that most of the ACA, including the ability to set rates, is likely constitutional. He noted that the Legislature is enacting provisions of the Students Come First plan even though it may be overturned later through the initiative process.

VOTE ON MOTION: Chairman Black called for a vote on the motion to introduce **RS 20857**. **Motion carried by voice vote. Reps. Barbieri, Palmer and Bayer** requested that they be recorded as voting **NAY**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:17 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary