

MINUTES
HOUSE BUSINESS COMMITTEE

- DATE:** Tuesday, January 31, 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:** Rep. Collins
- GUESTS:** Steve Keys and John Nielsen, Division of Building Safety; Jeff Fitzloff, Underwriters Laboratories; Kent Wells, International Association of Electrical Inspectors; Joe Andre, National Electrical Manufacturers Association; Bob Scott, State Electrical Board; Tom K. Brown, B&B Electric; Roger Hales, Driving Businesses Board, Bureau of Occupational Licenses; Steve Martinez, Tradewinds Building; Kurt Stembridge, Glaxo Smith Kline Pharmaceuticals; Benjamin Davenport, Risch Pisca
- Chairman Black** called the meeting to order at 1:35 p.m.
- MOTION:** **Rep Bilbao** made a motion to approve the minutes of January 25. **Motion carried by voice vote.**
- MOTION:** **Rep. Smith (30)** made a motion to approve the minutes of the Thompson Subcommittee meeting of January 23. **Motion carried by voice vote.**
- Rep. Thompson** reported on his subcommittee's consideration of Administrative Rules. The subcommittee recommended approval of **Docket Nos. 10-0101-1101, 10-0102-1101, and 10-0104-1101** from the Board of Professional Engineers and Professional Land Surveyors; **Docket No. 12-0110-1101** from the Department of Finance; **Docket Nos. 18-0105-1101, 18-0146-1101, and 18-0150-1101** from the Department of Insurance, and **Docket Nos. 24-0101-1101, 24-0401-1101, 24-1801-1101, and 24-2201-1101** from the Bureau of Occupational Licenses.
- With regard to **Docket No. 24-2501-1101**, Rules Governing the Idaho Driving Businesses Licensure Board, **Rep. Thompson** reported that the subcommittee referred this docket to the full committee for its consideration.
- MOTION:** **Rep. Patrick** made a motion to accept the recommendation of the Thompson Subcommittee. **Motion carried by voice vote.**
- DOCKET NO. 24-2501-1101** **Chairman Black** recognized **Roger Hales**, an attorney representing the Idaho Driving Businesses Licensure Board of the Bureau of Occupational Licenses, to present **Docket No. 24-2501-1101**. Mr. Hales testified that, taken as a whole, the Bureau of Occupational Licenses is requesting \$50,000 in overall fee decreases this year.
- The Driving Businesses Licensure Board was established in 2009. **Mr. Hales** stated it always takes some amount of time for a new Board to recover its startup expenditures and stabilize its financial status. This Board needs to increase its fees in order to become self-sufficient. Mr. Hales said their financing is trending in the right direction, and they should be able to get rid of their deficit in the next few years. The Board licenses 215 businesses or instructors. In 2010 these licenses generated \$42,000, and expenses were \$56,000. The figures for 2011 were \$56,000 in revenues and \$45,000 in expenses. In the current fiscal year, after six months, the Board's income has been \$21,000 and their expenses have been \$17,000.

In answer to committee questions, **Mr. Hales** said the Board's expenses derive from startup costs associated with promulgating rules, setting up the Board, producing forms and putting them on the website, and other initial expenses. In addition, the Board inspects the classroom setting of private driving businesses. Mr. Hales said it is these startup costs that have moved the Board's finances into the red. He reminded the committee that self-governing agencies receive no General Fund money, and said it is typical for new boards to take some time to mature and stabilize their fees and expenditures.

Asked how a board covers its expenditures when it is in a deficit position, **Mr. Hales** stated that all Occupational License boards are placed under the Bureau's umbrella and all funds collected are deposited into a single account, although they are accounted for separately. Since some boards are in the black, they typically assist other boards when financial assistance is needed.

Mr. Hales clarified that Board members have been involved in the discussion about a fee increase and had no objection to it. He testified that the Bureau attempts to have each of its Boards maintain a fund balance of approximately one year's operating expenses; if their funds build up an excess over that amount, a fee decrease is generally requested to stabilize their fund balances.

Responding to questions about the Driving Businesses Board's income and expenditures, **Mr. Hales** said it is difficult to state exactly what the Board's expenses will be, since their expenses can ebb and flow. He testified this is typical of self-governing boards; it is also typical that a new board will begin operation in the red, since they have no immediate funding source. The Board has been in existence for only a couple of years, spending \$56,000 in fiscal year 2010, \$45,000 in fiscal year 2011, and \$17,000 for the first six months of this fiscal year. Based on the \$17,000 figure, Mr. Hales said the Board could spend approximately \$34,000 this year. He noted they have reduced their expenses each year by about \$10,000, and said if revenues and expenses continue at the current rate, the Board could be in the black by approximately \$2,000 by the end of this year.

Mr. Hales further explained that the Board is obligated to follow up on complaints they may receive, and this follow-up often involves an investigation and/or disciplinary action, both of which can be expensive. Responding to the question of how the Board got into a deficit position, Mr. Hales explained again that this Board was formed in response to an act passed by the Legislature to regulate private independent driving businesses. There is no startup funding provided to the Board and no independent funding for ongoing operations, so they rely on fees charged to licensees. Mr. Hales testified that when a new board is created, it is instantly in the red. It takes at least one year for a new board to promulgate rules before they can charge license fees, and during that time there is no revenue flowing into the board. Since the Driving Businesses Board is required to be self-sufficient, the only source of income to make up their deficit is higher fees for licensees.

In response to further committee questions, **Mr. Hales** said licensees are required to serve an apprenticeship before they receive full licensure. He said if this Board is disbanded by the Legislature, the other boards within the Bureau of Occupational Licenses would have to absorb the current debt. Mr. Hales said the Board is currently \$19,000 in the red. The proposed fee increases will generate approximately \$9,750 in additional income next year, leaving \$9,250 of debt. If the Board's income remains at the same level, that remaining debt would be paid off in a couple of years.

MOTION:

Rep. Crane made a motion to reject **Docket No. 24-2501-1101**. In support of his motion, Rep. Crane said he had opposed the formation of this Board in 2009 because he did not think it would be self-sustaining. Rep. Crane said he is opposed to the fee increases proposed in this rule.

Asked to give a brief history of the Driving Businesses Board, **Mr. Hales** explained that private driving instructors were previously supervised under the Department of Education, and this function was paid for with the Department's general funds. It was the request of the private driving businesses to move out from the Department of Education and to form a separate self-governing board. This was done by legislative action in 2009.

Rep. Rusche stated his opposition to the motion, noting that licensees are trying to be responsible for their own expenses. **Rep. Bayer** expressed appreciation for the self-sustaining aspect of the Driving Businesses Board, but said he is uncomfortable with their current debt situation and the request for higher fees. He will not be supportive of this rule docket. **Rep. Barbieri** stated that higher fees may preclude new applicants from entering this business, and his main concern is the anti-competitive nature of the fee increases.

Mr. Hales further testified that the total number of licenses in 2010 was 210, in 2011 the number was 229, and so far this year the number is 215. This represents a 9% increase from 2010 to 2011, and a 6% decrease for the first half of fiscal year 2012. There are, however, still six months to allow for license renewals this year. **Mr. Hales** said this rule is being considered today in the Senate. He also clarified that individual boards within the Bureau do not vote on whether or not their excess funds are expended to cover the shortfall of other boards.

VOTE ON MOTION:

Chairman Black called for a vote on the motion to reject **Docket No. 24-2501-1101**. By a show of hands, **motion carried**.

Rep. Batt reported on her subcommittee's consideration of Administrative Rules from the Division of Building Safety. The subcommittee recommended approval of Docket Nos. **07-0103-1101, 07-0104-1101, 07-0104-1102, 07-0105-1101, 07-0205-1102, 07-0205-1103, 07-0207-1101, 07-0402-1101, 07-0501-1101, 07-0701-1101**, and **07-0701-1102**.

With regard to **Docket No. 07-0106-1101**, the subcommittee recommended rejection of this docket and adoption of a concurrent resolution, to be sent directly to the Second Reading Calendar, stating that the rule is being rejected.

With regard to **Docket Nos. 07-0107-1101** and **07-0205-1101**, the subcommittee recommends rejection of these two dockets.

MOTION:

Rep. Crane made a motion to accept the recommendations of the Batt Subcommittee.

In response to a request for further explanation of the reasons behind rejection of **Docket No. 07-0106-1101**, **Rep. Batt** stated that when the 2008 National Electrical Code was adopted there was an exception that would allow ARC fault circuits to be installed in bedrooms only. The 2011 Code does not contain that same exception, and the ARC fault requirement would apply to an entire house. **Rep. Batt** said these circuits cost between \$35 and \$37 each, and the requirement would increase the cost of a home by about \$500 for every 1,200 square feet. In remodeling projects, it may be necessary to replace an entire electrical panel, at a potential cost of thousands of dollars. She noted the subcommittee had received testimony on both sides of the issue, and heard conflicting testimony about possible safety issues.

VOTE ON MOTION:

Chairman Black called for a vote on the motion to accept the recommendations of the Batt Subcommittee on Administrative Rules. **Motion carried by voice vote**.

RS 21007:

Rep. Black presented **RS 21007**, a concurrent resolution stating that Docket No. 07-0106-1101 is being rejected. He noted that a number of people had signed up to testify on this rule but said they had already testified at the subcommittee meeting dealing with this rule.

MOTION: **Rep. Crane** made a motion to introduce **RS 21007** and send it directly to the Second Reading Calendar. **Motion carried by voice vote. Reps. Rusche and Smith** requested that they be recorded as voting **NAY**.

RS 20808: **Steve Keys**, Deputy Administrator of the Division of Building Safety (DBS), presented **RS 20808**, dealing with requirements for modular buildings. This legislation institutes a statewide installation permitting and inspection requirement for modular buildings. Presently, only modular buildings being installed in jurisdictions that enforce building codes are subject to installation inspections. This legislation will require DBS to perform installation inspections in those areas of the state not covered by local programs. Permit fees for inspections would be set by administrative rule. Mr. Keys said mobile job site facilities would qualify for an exemption from the installation permitting and inspection requirements. He noted that these provisions are brought forward by the modular board and manufacturers of modular buildings. The legislation also clarifies that recreational park trailers do not fall within the definition of a modular building. Without this clarification, these homes as currently constructed would not be legal for use in Idaho.

MOTION: **Rep Rusche** made a motion to introduce **RS 20808**. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:45 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary