

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Wednesday, February 01, 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: Steve Keys and John Nielsen, Division of Building Safety; Mike Brassey, Idaho Financial Services Association; Dave Curtis, Board of Professional Engineers and Professional Land Surveyors; Tom Donovan and Mark Larson, Department of Insurance; Colby Cameron, Asurion Insurance; Dawn Justice, Idaho Bankers Association; Skip Smyser, Connolly & Smyser; Marilyn Chastain, Department of Finance; Landis Rossi, Catholic Charities of Idaho; Ben Davenport and Max Greenlee, Risch Pisca; Ed Hawley, Department of Administration, Administrative Rules Office

Chairman Black called the meeting to order at 1:33 p.m.

Lynn Hoffmann, Executive Director of the Idaho Nonprofit Center, appeared before the committee to present information on the impact of nonprofits in Idaho. Ms. Hoffman explained that the Nonprofit Center is a statewide organization dedicated to helping nonprofit organizations be more successful in realizing their missions. She said the Center commissioned Steve Peterson, an economist at the University of Idaho, to produce a report on the economic impact of the nonprofit sector.

Steve Peterson, an economist from the University of Idaho, presented a brief summary of his findings on Idaho's nonprofit sector. One factor which makes assessment somewhat difficult is that nonprofits span all other industries and exist within all of them. Thus, their economic impact can be measured only by pulling them out and measuring them separately. A second factor that must be considered is the range of contributions to nonprofits, which include tangible assets, in-kind contributions, and contributions of time by volunteers.

Mr. Peterson testified that total employment in the sector is almost 45,000 jobs. If this figure is compared to county employment, it would rank as the fourth largest county in Idaho, behind only Ada, Canyon and Kootenai. Compared to industries, it would be the sixth largest industry, larger than the scientific and technical sector, the professional sector, and even the finance and insurance sector. Nonprofits contribute 8.9% of the total private jobs in Idaho.

Mr. Peterson stated the total spending of the nonprofit sector is \$3.3 billion; of that, just under half is new money coming into the state. The impact of volunteer contributions is likewise considerable. About 400,000 people volunteer time to various organizations; this contributed time totals about 60.2 million labor hours each year, the equivalent of nearly 28,000 jobs. Mr. Peterson said the value of this volunteer time is about \$1.2 billion.

Measured another way, nonprofits contribute to the economy by spending money on goods and services which total \$2.4 billion in sales. **Mr. Peterson** said if all nonprofit organizations were to leave the state, it is estimated that 27,000 jobs would be lost. The contribution of nonprofits to the state's gross domestic product is about 5%.

Responding to committee questions, **Ms. Hoffmann** said even with the entire health care sector taken out, the nonprofit sector still accounts for 14,000 employees in Idaho. After health care, the second largest category is private education, with 9% of the total. The third largest segment is categorized as social services. Asked what the major source of funding is for nonprofit entities, Ms. Hoffmann said nonprofit organizations receive money from foundation grants as well as state and federal grants, from individual donations, from Medicaid and Medicare, and from their own operating receipts. She said 75% of contributed dollars come from individuals.

Chairman Black thanked Ms. Hoffman and Mr. Peterson for their presentation on the economic impact of the nonprofit sector in Idaho.

Chairman Black explained that the Department of Insurance representatives were not present at yesterday's meeting when the Thompson Subcommittee reported its recommendations for approval of the Department's rule dockets.

MOTION: **Rep. Thompson** made a motion to approve **Docket Nos. 18-0105-1101, 18-0146-1101, and 18-0150-1101. Motion carried by voice vote.**

H 374: **Dave Curtis**, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **H 374**, explaining the three objectives of the bill. First, it restricts assignment for initial licensure or certification exams to residents of Idaho or students at Idaho universities, with exceptions for certain military personnel. Mr. Curtis said the Board believes residents of other states and countries have tried to register for Idaho examinations because they do not qualify for assignment to exams in their own states or countries of residence. He said they may be seeking certification or licensure to gain prestige or to use the license as leverage to gain licensure in their location. Second, the legislation gives the Board authority to postpone action on an application if the applicant has unresolved disciplinary charges in another jurisdiction. Third, the bill modifies the application process to allow applications to be made digitally, by removing the requirement that an application be made under oath. Mr. Curtis said the legislation is supported by the Idaho Society of Professional Engineers, the Idaho Society of Professional Land Surveyors, and the American Council of Engineering Companies-Idaho.

Responding to questions from the committee, **Mr. Curtis** said an out-of-state engineer who wins a contract within Idaho would fall under the "license by comity" provisions. Under these reciprocity provisions, the engineer would have to meet the licensing requirements in effect in Idaho at the time he or she was licensed elsewhere. If those requirements are met, and barring any pending disciplinary action in another jurisdiction, the person is entitled to an Idaho license.

Mr. Curtis was asked about the definition of a "resident" for purposes of this legislation. He conceded that there are multiple definitions in Code and said the intent of the Board is to promulgate rules to define residency. He said they are considering using voter registration, utility bills, or a job offer to work in the state. Asked why Idaho should care about out-of-state people testing in Idaho, Mr. Curtis said the Board thinks it could be participating in a sham when applicants want to take Idaho's test but say they have no intention of practicing in Idaho. He said licensure is not to be used solely for prestige.

MOTION: **Rep. Thompson** made a motion to send **H 374** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Patrick** will sponsor the bill on the floor.

H 375: **Dave Curtis**, Executive Director of the Board of Professional Engineers and Professional Land Surveyors, presented **H 375**. He explained that under current law a subdivision can be platted with only exterior boundary monuments placed; if this takes place, a bond or a cash deposit to the city or county is required to assure that the interior monuments will be set by a time certain. If the original surveyor is not able to set the interior monuments later, this legislation will allow a substitute surveyor employed by the same business entity to set the monuments. The substitute surveyor would be required to file a Record of Survey to show which monuments were set by which professional land surveyor. Mr. Curtis testified that H 375 is supported by the Idaho Society of Professional Engineers, the Idaho Society of Professional Land Surveyors, and the American Council of Engineering Companies-Idaho.

Asked how much time can elapse before setting the interior monuments, **Mr. Curtis** said typically no more than a year, but that time frame is negotiated between the governing body and the surveyor.

MOTION: **Rep. Patrick** made a motion to send **H 375** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Patrick** will sponsor the bill on the floor.

RS 21052: **Colby Cameron**, representing Asurion Insurance, presented **RS 21052**. Mr. Cameron testified that Asurion is an insurance company that offers coverage for cell phones, PDAs, and other similar electronic devices. He said this is an attempt to regulate and standardize, on a statewide basis, insurance for portable electronics.

Responding to questions from the committee, **Mr. Cameron** said Asurion Insurance would be regulated by the Department of Insurance. He said the Director of the Department is aware of the proposed legislation and has seen it.

MOTION: **Rep Collins** made a motion to introduce **RS 21052.** **Motion carried by voice vote.**

RS 20836: **Marilyn Chastain**, Securities Bureau Chief of the Department of Finance, presented **RS 20836**. Ms. Chastain said the legislation does three things. First, it makes technical corrections such as punctuation and citation changes, as well as striking unnecessary language. Second, it provides specific language that states it is unlawful for a securities dealer or financial adviser to misappropriate or misuse client funds. New language will also prohibit someone who collects a client's money from using it to make Ponzi payments. Ms. Chastain explained that, although these crimes are able to be prosecuted under language in the current securities law, the new language will make prosecution easier. Finally, the legislation establishes a specific statute of limitations on the length of time allowed for the Department of Finance to bring enforcement actions to pursue fraud cases. The time allowed is ten years from the date of the last action that was part of the alleged fraud. She acknowledged this is a fairly long statute of limitation, but said that many times people make long-term investments and don't expect a return for five years or more. In these cases, clients may be receiving phony statements for a number of years before they suspect any illegal activity in their accounts.

Ms. Chastain was asked about the language being stricken on page 13; she said this language conflicts with federal law and is therefore being removed. Asked whether management fees might fall under the definition of money diverted for personal use, she said to "divert" money is to take it away from its intended purpose. If an investor understands he will be paying a management fee, this will not be a problem.

In response to a suggestion that the statute of limitations should be from the date of discovery, rather than from the "last action," **Ms. Chastain** said she would have no problem making that change and agreed that it might be a better approach. She said many states have no statute of limitations for these crimes. She also clarified that the language specifying Ponzi schemes as crimes will simply make it easier to prosecute; it is not a new acknowledgement that such activities are illegal. She said that, with the new language, the Department could move for summary judgment on most cases instead of having to take each element of existing statute and explain how the facts of a case fit under those statutes.

MOTION: **Rep. Cronin** made a motion to introduce **RS 20836**. **Rep. Barbieri** asked whether the motion should include changing the language dealing with the statute of limitations. Following a brief discussion, the suggestion was made to return the RS to its sponsor for revision.

UNANIMOUS CONSENT REQUEST: **Rep. Cronin** requested unanimous consent to return **RS 20836** to sponsor. There being no objection, the request was granted.

RS 20818: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **RS 20818**, stating this legislation is brought in response to input from licensees and affected government entities. This will expand the current Public Works Contractor classifications by establishing a new "CC" class of license between the existing "C" and "B" classes. Currently a "C" contractor is allowed to bid on contracts up to \$200,000 while a "B" contractor is allowed to bid on contracts up to \$600,000. This legislation allows the "CC" class to bid work up to \$400,000 and establishes minimum financial requirements of \$25,000 in working capital and \$75,000 in net worth. Applicants for a "CC" license must have undertaken projects of at least \$280,000 to fulfill the experience requirements. Mr. Keys said this new license classification will engender additional bidder participation on projects between \$200,000 and \$400,000.

Asked to define "working capital" in this section of law, **Mr. Keys** said it is the standard accounting definition, current assets less current liabilities. He said the new \$200 fee for a Class B license fee is a natural progression since the new Class CC license fee is now set at \$150.

MOTION: **Rep. Collins** made a motion to introduce **RS 20818**. **Motion carried by voice vote.**

Steve Keys, Deputy Administrator of the Division of Building Safety, presented **RS 20821**. Mr. Keys said this legislation adopts the Idaho State Plumbing Code as the minimum requirement for plumbing installations in Idaho. He said the core of this bill is the same as that approved last year by this committee, but it does incorporate some revisions necessary to gain the endorsement of the Association of Idaho Cities and the Idaho Association of Building Officials.

Responding to a committee question, **Mr. Keys** said agreement was reached after it was decided that amendments will remain in administrative rules and will not be reflected in the body of the Code.

MOTION: **Rep. Batt** made a motion to introduce **RS 20821**. **Motion carried by voice vote.**

RS 20825: **Steve Keys**, Deputy Administrator of the Division of Building Safety, presented **RS 20825**, which is brought forward from the HVAC Board to address an area that has been problematic since the original implementation of the program. This legislation modifies the definition of a heating, ventilation and air conditioning contractor by changing the term "solid-fuel burning furnaces" to "solid-fuel burning appliances." The Board believes the installation of solid-fuel stoves and factory-built fireplaces is a legitimate public safety concern and should be included in the HVAC program.

In response to questions from the committee, **Mr. Keys** said there had been some question about whether solid-fuel burning appliances would be defined as a mechanical system, and this legislation will clear up any confusion. He said this change applies only to solid-fuel devices such as those that burn wood or coal.

MOTION: **Rep. Guthrie** made a motion to introduce **RS 20825**. **Motion carried by voice vote.**

RS 20826C1: **Steve Keys**, Deputy Administrator of the Division of Building Safety (DBS), presented **RS 20826C1**, saying this legislation modifies existing law to satisfy new HUD requirements requiring inspections of all new manufactured home installations. He said the Division has accepted responsibility for assuring that the mandatory inspections are conducted. DBS is working with local jurisdictions to leverage their existing programs in meeting the federal requirement. **Mr. Keys** explained the primary changes in this proposal, namely: First, owners or installers of new manufactured homes are required to purchase a \$50 installation tag from DBS. The tag will enable DBS to track the locations of all new installations per the HUD requirement and will produce the revenue necessary to train inspectors and support quality assurance activities required of the Division. Second, DBS will issue permits and conduct inspections of new manufactured home installations in those areas of the state not covered under other inspection programs.

MOTION: **Rep. Palmer** made a motion to introduce **RS 20826C1**. **Motion carried by voice vote.**

RS 20894C1: **Rep. Guthrie** presented **RS 20894C1**, noting that when the Elevator Safety Code was instituted in July 2004 it did not contain any grandfathering provisions for existing elevators. He testified that retrofitting existing elevators to meet the provisions of the 2004 law can be prohibitively expensive, given the electronics and technology involved. **Rep. Guthrie** said he worked with the Division of Building Safety to arrive at acceptable language for this legislation. This new provision will establish that any safety requirements in place when an elevator was first commissioned will still apply; additionally, if retrofitting an existing elevator to meet the new requirements costs less than \$5,000, those updates should be done. **Rep. Guthrie** clarified that this legislation does not seek to escape doing the work in the case of significant renovations or those made to meet the Americans with Disabilities Act (ADA) requirements. He said this legislation is in response to a situation in Pocatello where updating an elevator to current requirements, including a device to detect the presence of smoke and force the elevator to return to the ground floor, would cost \$50,000.

MOTION: **Rep. Rusche** made a motion to introduce **RS 20894C1**. **Motion carried by voice vote.**

RS 20923

Rep. Elaine Smith presented **RS 20923**. Rep. Smith provided information about the proliferation of payday lenders in this country, stating that there were only a handful in the early 20th century but there are now more than 19,000 in the U.S. By comparison, McDonald's restaurants number only about 14,000. She explained the process used to get a payday loan, stating that a customer writes a postdated check, with the date coinciding with the customer's next paycheck. For each \$100 borrowed, the fee is \$10 to \$15 for a ten-day loan, which translates to an annual interest rate of 400%. If the borrower cannot pay off the loan when due, and "flips" to a longer-term loan, the interest rate can be even higher. Rep. Smith said Congress recently enacted a cap of 36% for the interest rates on small loans to military families, and a recent referendum in Montana capped interest rates on payday loans at 36%. She said the same limitation should apply to all Idahoans who utilize payday loan services.

Rep. Smith yielded to **Sen. Heider**, who testified in support of **RS 20923**, saying payday loan businesses serve a segment of society that can least afford to pay the highest interest rates to borrow money. He said this legislation is not an attempt to shut down payday loan businesses, but it is an effort to place minimum regulations on lenders, including full disclosure of interest and fees.

During committee discussion, the point was made that if a payday loan business is allowed to charge a maximum annual interest rate of 36%, that could equate to less than one dollar on a \$100 loan for a two-week period. This could be a small enough fee that no business would be willing to make these short-term loans, thus making them virtually unavailable to the people who need to utilize such loans. It was also noted that with the proliferation of these businesses, it would seem that competition would drive the rates and fees they are able to charge, given the highly risky nature of these short-term loans. Committee members also asked to hear from representatives of the payday loan businesses at the time the bill is scheduled for a hearing.

Responding to committee questions, **Sen. Heider** said these loan companies are not federally regulated but instead are regulated by the state. **Rep. Smith** added that their regulatory agency is the Department of Finance. She also mentioned the newly-formed federal Consumer Finance Protection Bureau, but said that Bureau is not yet fully operative.

MOTION: **Rep. Rusche** made a motion to introduce **RS 20923**. **Motion carried on voice vote.** **Reps. Thompson** and **Barbieri** requested that they be recorded as voting **NAY**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:00 p.m.

Representative Max C. Black
Chairman

MaryLou Molitor
Secretary