

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 16, 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 1:37 p.m.

GUBERNATORIAL APPOINTMENT TO BE VOTED ON Appointment of **Jeff Sayer** as Director of the Department of Commerce to serve a term commencing October 3, 2011 and serving at the pleasure of the Governor.

MOTION: **Senator Tippetts** moved, seconded by **Senator Smyser**, to send the gubernatorial appointment of **Jeff Sayer** as the Director of the Department of Commerce to the floor with a recommendation that it be confirmed by the Senate. The motion carried by **Voice Vote**.

S1307 **Relating to Secured Transactions. Mike Brassey, representing Uniform Law Commission** advised this legislation speaks to the security interest in personal property. This does not deal with security interest in real property. This bill deals with a "profession of security interest" a form is filed with the Secretary of State giving notice to the public that there is a security interest. The significance of this filing is: 1) The first person who files a properly executed (UCC Financing Statement 1 Form) that person will have priority to that collateral; 2) If several creditors have a claim against the same collateral, the first to file is first in right; and 3) Release of the security interest or the foreclosure of the security interest because the debtor has defaulted. This bill does not deal with the release or foreclosure, it is primarily concerned with the process of perfecting a security interest.

Five of the sections that are being amended are to conform to other amendments so that they match other sections that are being amended. Four sections make technical corrections. Two sections are the transition provisions and the effective date. The effective date of the statute is set to be 2013 to allow all states to have ample time to adopt all of the changes. This is important to creditors who operate interstate so there is conformity state by state.

The five sections that have amendments are: 1) Section 28-9-316, on page 15, if a debtor moves collateral to another state or merges with someone else the creditor will maintain the priority position so long as within four months they make the changes necessary to conform to any necessary changes in the new state. If an Idaho company merges with a company in another state, such as the state of Washington. The debtor will be in Washington and the creditor will have the same four months to comply with the Washington law;

2) Section 28-9-503, on page 22, deals with problems that creditors have had historically in identifying correctly who is the debtor. Example: Bankruptcy case the debtor's name was Andrew Fuell. The UCC filing had the name Andrew Fuel. The Bankruptcy Court threw out the security interest and the debt became unsecured. This legislation deals with individual debtors it states that a creditor can rely on a validly issued drivers license or state I.D. first for the debtor's name. If the creditor uses the name on the drivers license or state I.D., their claim is correct no matter what the debtor does with their name. The assumption is the validity of the officially issued document; 3) Section 28-9-503, on page 24, if the creditor finds out that the debtors name has been changed on the driver's license, the creditor has four months to amend the filed financing statement with the updated name of the debtor; 4) Section 28-9-516, page 26, the name provided as the name of the debtor is the name of an individual or an organization; and 5) Section 28-9-518, on page 28, this section concerns the ability of a person to file with the Secretary of State a statement saying a security interest filed with the Secretary of State is inaccurate. This clarifies that it is an information filing and not a filing that changes the nature of security interest.

MOTION:

Senator Schmidt moved, seconded by **Senator Cameron**, to send **S1307** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Davis** will sponsor **S1307** on the floor.

H374

Relating to Engineers and Surveyors. Dave Curtis, P.E., Executive Director, Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, stated this bill will accomplish three objectives. The first is to restrict assignment to examinations for INITIAL licensure or certification examinations to residents of Idaho or students at Idaho universities. Exceptions to this residency requirement would be for military personnel stationed in Idaho on military orders and for persons employed full-time in Idaho. The Board would like to see this restriction because they have reason to believe that residents of other states and countries have attempted to register for the examinations we administer. The reason being they do not qualify for assignment to the exams in their own states or countries of residence. The Board believes that their purpose in seeking certification or licensure here is either for prestige or to try to use that as leverage for similar privileges in their resident location. This bill will prevent this activity through suggested changes to the first paragraph of Section 54-1212, *Idaho Code*, on Page 1, at Lines 27-31. The second objective is to give the Board the authority to postpone action on an application from an applicant against whom disciplinary charges are unresolved in another jurisdiction. The Board is reluctant to issue a license to a person against whom disciplinary action may be taken in another jurisdiction without knowing the disposition of the charges. We have suggested changes to Section 54-1212, *Idaho Code*, on Page 3, at Lines 36-38 and on Page 5, at Lines 1-3. Similarly, the Board needs the authority to postpone release of scores to candidates on an examination, if there is any unresolved examination irregularity involving the applicant. We have suggested changes to Section 54-1212, *Idaho Code*, on Page 3, at Lines 38-43 to accomplish this. The third objective is to modify our application process to allow applications to be made digitally. In order to do this we need to remove the requirement that applications be made "under oath." Veracity of statements will be assured through the application process. We have suggested changes to the first paragraph of Section 54-1213, *Idaho Code*, on Page 3, at Line 49 to accomplish this.

MOTION:

Senator Tippetts moved, seconded by **Senator Smyser** to send **H374** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will sponsor **H374** on the floor.

H375

Relating to Plats and Vacations. **Dave Curtis** said under current law a subdivision can be platted with only the exterior boundary monuments placed, leaving the interior monuments to be placed at a later time. This allows the property owner, for example, to take a final crop off the land, before the land is developed, without the problem of disturbing the interior land survey monuments.

If a developer chooses to go this route, the current law provides for bonding or a cash deposit to the governing body of the city or county to assure that the interior monuments will be set by a time certain. In the event the professional land surveyor who set the exterior monuments is for any reason not available to set the interior monuments at a later date, the current law requires that the city or county collect on the bond or cash deposit. Then the County Surveyor or a contract surveyor would be responsible for placing the interior monuments and be paid from the proceeds of the bond or the cash deposit. The amendments in **H375** would allow a substitute surveyor, employed by the same business entity as the original surveyor, to take over responsible charge of the work. They would place the interior monuments without the requirement of the city or county's collection on the bond or cash deposit. This will allow continuity of the project without the need to involve a surveyor who may not be familiar with the subdivision. In the event a substitute land surveyor places the interior monuments, he or she will be required to file a Record of Survey to show which monuments were set by which professional land surveyor.

MOTION:

Senator Smyser moved, seconded by **Vice Chairman Malloy**, to send **H375** to the floor with a do pass recommendation. The motion carried by **Voice Vote**. **Senator Tippetts** will sponsor **H375** on the floor.

S1306

Relating to Directory of New Hires. **Bob Fick, Department of Labor, Communication Manager**, advised that this legislation will impose a \$25 fine on employers who fail to comply with new hire reporting. The law requires that all new hires be reported to the Department of Labor within 20 days of their commencement of work. The fine would be capped at \$5,000 per quarter, that would be 200 violations per employer per quarter. The U.S. Department of Labor and Idaho Department of Labor have determined that this is the best chance they have against unemployment insurance benefit collection fraud. The Department cross checks daily between the new hire reports and the unemployment insurance roster to identify individuals who might have gone back to work, but are still collecting benefits. If the Department is unable to identify these individuals from the new hire reports, the new hires will show up on the employers quarterly report. This could be four or five months past the time that these individuals have started working and these benefit overpayments are often very difficult to recover.

Mr. Fick stated that they have contacted all employers every year concerning their responsibilities under the new hire law. Every new business that opens receives a packet of information from the Department. If this bill should pass, the Department plans an education campaign this spring through seminars and flyers. **Senator Cameron** asked why can't the Department do an enhanced education program without the penalty. Is the penalty necessary in order to get the employers to comply? **Mr. Fick** stated the Department has been doing education outreach in various forms for the last 14 years and it has had the effect of getting 30% of the employers to comply. The other 70% have not complied despite annual reminders and other efforts. The Department believes that the \$25 fine will finally get the attention of the other 70%.

Senator Tippetts asked does the Department of Labor believe that this is the best option for this compliance or are there others? **Mr. Fick** responded that there are several employees at the Compliance Bureau who spend time at the end of each quarter cross checking the 600,000 employees against the new hire register to make sure they are not continuing to collect benefits. Right now the Department has \$34M worth of overpayment outstanding as the result of the recession and the problems it has created for individuals to be able to pay back. Under Idaho law if you have an overpayment of unemployment benefits you cannot collect benefits until the overpayment is satisfied.

Pam Eaton, representing Idaho Lodging and Restaurant Association and Idaho Retailer Association, stated when they went to their members concerning this legislation the members were in support of giving the Department of Labor the tools to fight fraud. The dual payments and the money that is taken out of the system causes increased taxes to other complying businesses.

MOTION: **Senator Goedde** moved, seconded by **Senator Schmidt**, to send **S1306** to the floor with a do pass recommendation. **Chairman Andreason** called for a **Roll Call Vote** for **Senator Goedde's** motion. **Chairman Andreason, Vice Chairman Molloy, Senator Cameron, Senator Smyser, Senator Tippetts, Senator Johnson** voted nay. **Senator Goedde, Senator Stennett, Senator Schmidt** voted aye. The motion failed.

S1308 **Relating to PERSI Sick Leave for Teachers.** **Senator Smyser** stated this legislation amends Section 33-1217, *Idaho Code*, which is the accumulation of unused sick leave. It provides a safety net for educators who have been subject to Reduction in Force. Under the current code, an individual who terminates employment with their school district must secure employment in another district or with another state education agency within one year or they will lose their accumulated sick leave.

Sick leave is an important factor for retirement, as it is used to calculate their credit toward the purchase of retiree health insurance. This legislation would allow an education employee who has lost their job due to a Reduction in Force up to three years to find new employment without risk of losing accumulated sick leave.

MOTION: **Senator Cameron** moved, seconded by **Senator Stennett**, to send **S1308** to the floor with a do pass recommendation. The motion carried by **Voice Vote**.

MOTION: **Senator Johnson** moved, seconded by **Senator Stennett**, to approve the minutes of February 9, 2012. The motion carried by **Voice Vote**.

There being no further business, the meeting adjourned at 2:47 p.m.

Senator Andreason
Chairman

Carol Deis
Secretary