

MINUTES
SENATE EDUCATION COMMITTEE

DATE: Wednesday, March 14, 2012
TIME: 3:00 P.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Goedde, Vice Chairman Mortimer, Senators Pearce, Fulcher, Winder, Toryanski, Malepeai, and LeFavour
ABSENT/ EXCUSED: Senators Andreason

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.

CONVENED: **Chairman Goedde** called the meeting to order at 3:09 P.M. and asked the secretary to take a silent roll.

H 564 **Chairman Goedde** welcomed **Representative JoAn Wood** to present **H 564**. **Representative Wood** said this is a clarification of last year's bill. The reason the bill was originally brought forward is there has not been adequate time for a school board to gather information of prospective personnel. There is some uncertainty with the professional standards commission in the material they were able to gather to be able to make a good decision to hire the people to work in the state of Idaho in administrative or teaching positions. In the time they had to look at the original bill, the stakeholders reported that the bill needs to be more specific in what the state is requiring for information to be provided to the districts.

This bill is to provide more transparency and open communication between Idaho's public schools and the Professional Standards Commission with regard to investigations and status of review of complaints and charges of unethical conduct which may impact the employment decisions and employee status of Idaho's certificated public employees. This bill defines for Idaho public schools the specific information to be conveyed between public schools associated with employee applicants. It provides greater clarity relating to "provisional employment" of certificated personnel as there is no manner nor mechanism currently available allowing for such a provisional retention and no manner in which to address employment decisions associated with subsequently provided performance materials once an employee has been provisionally retained.

Representative Wood explained to the committee all the changes that were made to the bill. In crafting this bill she asked the Idaho Education Association (IEA) for their input and they gave her five pages of suggested changes. Her hope is the changes are satisfactory with the IEA.

She stood for questions. **Chairman Goedde** said for the committee's benefit they do not have the engrossed copy, there is a pink sheet that shows the changes. He then asked **Representative Wood** in regards to page 5, lines 1-3 in reading the language, could an administrator slip something in the employees file without the employee ever knowing? **Representative Wood** said that is a possibility, however, the bill also states that employees have the ability to rebut any allegations. **Chairman Goedde** then asked do districts have records of prior pending revocation, suspensions, or existence of prior letters of reprimand? Is that something that is standard and would it be found in a teacher's file. **Representative Wood** replied that she didn't have the answer for that question.

Senator Toryanski said there is a lot of detail in this statute such as the type of documents that are in the file to be transferred. Is there any reason why there is such detail and such particularity in statute rather than a more general description as to how the process is expected to work. Could the Board of Education work out the details and put them into the rules. **Representative Wood** said the Idaho School Board Association wanted to see more consistency in what school districts were sending to other school districts. The stakeholders wanted more rules to explain what districts should have in the employee files.

TESTIMONY:

Paul Stark, counsel for the Idaho Education Association (IEA), said they have difficulty with section two. It was eluded in the previous testimony that the IEA did not work with the authors, yet, the IEA did ask to meet with them on three different occasions and was never given that opportunity. It is his contention that many of the difficulties he explained could have been resolved had those meetings occurred. The original bill has been on the books for just a little under a year and it was represented earlier as a clerical burden for district employees. He said the unintended consequence of this bill is that it becomes more of a clerical burden in regards to how much information is sent. These changes turn this legislature into a humongous human resource department for school districts having legislated everything in regards to hiring standards.

He went through the bill, provision by provision, discussing some of the problems of the bill.

Vice Chairman Mortimer said that it looks like this legislation is trying to limit what is coming from the prior school district. It is his understanding the way the current legislation is written, the new district gets every piece of information on a teacher from the prior district. By specifically saying it needs to be related to job performance and job conduct this keeps unnecessary documents from being sent and gives them what they really want to see.

Mr. Stark said the way he reads the statute is this is the minimum amount of information to be sent to the hiring district. Prior to this bill anything related to job performance would be included in the personnel file. There are investigative files that include items that are irrelevant to a personnel file.

Chairman Goedde would like to discuss the investigative or other files statement in the statute. He understood there is the potential for those to be used without an employee's knowledge. That is a conflict and how does it get fixed. **Mr. Stark** said there could be some amendments drafted to fix this ambiguity. This went to the amending order in the House of Representatives on a Thursday morning and was heard on the next Friday morning. For a variety of reasons the changes didn't get added to the bill that they have before them. The two amendments greatly improve and simplify the bill. Up to this point IEA has not been able to add those amendments. **Chairman Goedde** asked if **Mr. Stark** thought they were friendly amendments. **Mr. Stark** said he thinks they are logical and reasonable.

TESTIMONY: **Mr. Stark** said another curious part of this amendment, is that the school districts had to request these files from past public employers. Why the limitation to public employers? There are individuals that come into the public school system from the private sector. His further complaints towards the bill included the added clerical responsibility, which creates burden and more bureaucracy. This is a cumbersome procedure in regards to getting information back and forth to the districts, which can take up to 56 days before they could be hired. The employee could be hired as a long term substitute, however, that greatly reduces their pay and benefits, thereby creating a massive disincentive for teachers to come to Idaho to teach. The question is this good policy for Idaho? Given the pay conditions this does not encourage people to come to Idaho.

Chairman Goedde asked for a chronological breakdown of what a school district would do in offering employment to a teacher. What is the time of year. **Mr. Stark** said under the current legislation contracts must be offered July 1st. **Chairman Goedde** replied 56 days from July 1st puts a teacher close to September 1st. Can the teacher get retroactive pay? **Mr. Stark** said he didn't know that answer.

Mr. Stark said this entire bill and the entire amendments could be reduced to one section and really one sentence. He argued the only statement that should be in the bill is " the district board shall develop a policy to confirm prior work experience and check references." He said that is all that is needed in the statute. This is typical due diligence to any business entity. He stated this change is being driven by one poor hiring choice in southeastern Idaho. This is closing one loop-hole to remedy one situation; whereas, simple business sense and due diligence on the part of the school boards could remedy this issue.

TESTIMONY: **Karen Echeverria**, Executive Director of the Idaho School Boards Association (ISBA), gave the committee a letter from **Christina Linder** from State Department of Education who was unable to attend today's hearing. **Ms. Echeverria**, then gave her testimony saying the ISBA supports this bill. Their association asked **Representative Wood** to bring this bill forward because she was the sponsor of the 2011 bill **H 201**. The association had passed resolutions to support the changes. **Ms. Echeverria** stated in her testimony that she would answer some of the questions that have been asked. She said most of the questions **Mr. Stark** asked had to do with language from the 2011 bill not any of this year's changes. She then answered the earlier questions from **Mr. Stark and Vice Chairman Mortimer**.

TESTIMONY: **Jason Hancock** from the State Department of Education, said they support this legislation. Ms. Linder, who was involved in putting this legislation together, is not available today to testify. There were no questions from the committee to **Mr. Hancock**.

TESTIMONY: **Rob Winslow** the Executive Director of Idaho Association of School Administrators, said that his association is supporting a streamline process of transferring employee files from one school district to another in the hiring process. They appreciate **Representative Wood** for updating this current legislation to limit the transfer of information to only job performance and job related activities. These limitations simplified the process and provides administrators the critical information during the hiring process.

Senator Pearce asked **Mr. Winslow** are there other states that have these regulations. **Mr. Winslow** said he is not aware of any state with similar laws. For the state of Idaho, this law allows personnel files to follow the person from one district to another. In the past that was not allowed. Districts must do due diligence in hiring and this will help.

- CLOSING REMARKS:** **Representative Wood** said she felt she was being accused of not sitting down and meeting with the IEA. However, she asked for a letter from the IEA with their changes. She called their legal staff to make the changes and worked back and forth to get the bill written as it is presented. She said she appreciated IEA's willingness to work with her. She referred the committee to the letter from **Christina Linder**. These changes to the bill were recommended by her. She believed that this legislation and the way it was written was very transparent. The goal of this legislation is to benefit the school districts in the hiring process, thereby, benefiting the students of Idaho. She asked the committee to please recommend this bill to the Senate floor.
- DISCUSSION:** **Senator Malepeai** said that he is hearing a lot of information. In this type of bill, the committee looks for collaboration from the stakeholders and that is not the case with the bill. He believes the differences in this bill could be worked out. He is not comfortable with the bill as it is written. Can the stakeholders get together and figure out how to write this so the best interest of all parties is served. He would like to hold this bill until the stakeholders can get together to work it out.
- DISCUSSION:** **Vice Chairman Mortimer** said he believes there are a few things that can be corrected to make the legislation better. There are a few areas where the wording needs to be more definitive.
- MOTION:** **Vice Chairman Mortimer** moved, seconded by **Senator Fulcher**, that **H 564** be sent to the 14th Order for the possibility of amendment.
- DISCUSSION:** **Senator Toryanski** would like the record to reflect that he is not comfortable with this approach. He feels like the legislature is being asked to be a human resources body. The approach he would be more comfortable with is some general guidelines or directions. Then leave it to a body with access to more expertise; such as the Board of Education to hammer out rules as to what should or should not be in a file. This bill reminds him of a "dogs breakfast" of personnel policy. There is a need for information for the protection of the children, which explains his vote last year. He wants to make sure that employees are treated fairly and that the authors of this bill should utilize the expertise of experts to craft this bill to protect employee, employer and the children. So many factors for employment can reside in the personnel file that is why those files must be treated with the most reverence and respect. His stated his approach would be for a general and streamlined approach from the legislature.
- VOTE:** The motion carried by **voice vote**. **Chairman Goedde** said to **Representative Wood** he would be happy to work with her and the stakeholders to make some friendly amendments to satisfy everyone. **Chairman Goedde** will carry the bill on the 14th Order for amendment.
- H 603:** **Rob Winslow**, Executive Director of Idaho Association of School Administrators (IASA), introduced **H 603**. This legislation provides for 97 percent average daily attendance (ADA) funding protection for Idaho school districts. The IASA worked with the State Department of Education and Idaho School Board Association to design this revenue neutral bill. All stakeholders are in agreement with this legislation.
- Vice Chairman Mortimer** asked **Mr. Winslow** were all the members surveyed? Was the agreement a 100 percent? **Mr. Winslow** said yes. In drafting this bill they worked with Tim Hill of the Department of Education and got a ten year history as to which district has needed the protection. There were nine districts that had never participated in the protection. The others have had to use it on occasion. The bill was examined by the finance group at the Education Department and the districts that never used the protection, and those groups were asked as to what level they were willing to fund.

- TESTIMONY:** **Jason Hancock** of State Department of Education, said he is registering the Department's support of this legislation. They gave IASA a way to proceed with this bill so as it would not cost the state any money.
- TESTIMONY:** **Jessica Harrison**, Policy and Public Affairs Coordinator for ISBA, said on behalf of the 550 members of the ISBA that they are in support of this bill. The ISBA has a resolution that overwhelmingly passed in their membership. The association strongly supports the passage of **H 603**.
- MOTION:** **Vice Chairman Mortimer** moved, seconded by **Senator Pearce**, to sent **H 603** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Vice Chairman Mortimer** will carry the bill on the floor.
- H 626:** **Jason Hancock** from the State Department of Education, introduced **H 626**. This bill implements one of the recommendations of the 2011 Public School's Task Force, from the online course subcommittee. Their recommendation is that the state create a clearinghouse for approved online courses. This website could be reviewed by students, parents, and schools. This is a site where people can go to find information regarding the various online courses that are available. The key aspect is that this site is a mechanism for those who have taken these courses to review and give them a quality rating. The fiscal allocation is up to \$500,000 for FY 2013 for the development of the site. Then reduced to \$150,000 in future years for the maintenance.
- QUESTIONS:** **Senator Pearce** asked does it really cost a half of a million dollars to put a website together. **Mr. Hancock** said they believe it will. They are looking at creating a fairly robust website. **Senator Pearce** wondered if this idea could be developed at one of the State's Universities. **Chairman Goedde** said there is some indication that IDLA can do this for far less.
- MOTION:** **Senator Toryanski** moved, seconded by **Senator Fulcher**, to send **H 626** to the floor with a do pass recommendation. The motion carried by **voice vote**. **Chairman Goedde** with **Senator Toryanski's** permission, will carry **H 626** on the floor.
- ADJOURN:** Having no more business, **Chairman Goedde** adjourned the committee at 4:35 P.M.

Senator Goedde
Chairman

LeAnn South
Secretary