

MINUTES  
**HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Tuesday, January 15, 2013

**TIME:** 1:30 P.M.

**PLACE:** Room EW05

**MEMBERS:** Chairman Hartgen, Vice Chairman Anderson(31), Representatives Loertscher, Anderst, Hancey, Harris, Holtzclaw, Mendive, Romrell, VanOrden, King, Woodings

**ABSENT/  
EXCUSED:** None

**GUESTS:** Matt Keenan and Austin Hill, Idaho Reporter; Don Drum and Joanna Guilfooy, Public Employee Retirement System of Idaho (PERSI); Donna Weast, Department of Human Resources; Clark Corbin, Post Register; Michael Johnson and Bob Fick, Department of Labor; Kolby Jones, House of Representatives intern; Bill Roden, citizen; Marty Durand, Idaho Building Trades Counsel (Idaho BTC); Fred, citizen

**Chairman Hartgen** called the meeting to order at 1:30 p.m.

**MOTION:** **Rep. Anderst** made a motion to approve the minutes of January 9, 2013. **Motion carried by voice vote.**

**DOCKET NO. 09-0104-1201:** **Bob Fick**, Department of Labor, presented **Docket No. 09-0104-1201**. He stated that this Proposed Rule clarifies that all information a claimant of unemployment benefits is asked to provide is material information used to determine a claimant's eligibility for those benefits. Additionally, a new rule is being added to clarify that claimants must repay all benefits received as a result of a willful false statement or willful failure to report a material fact. This change is being made because claimants are allowed to earn up to 50% of their benefit amount without penalty. Certain claimants, knowing this, have failed to report earnings below that 50%, which constitutes fraud because it is failure to report a material fact.

In response to questions, **Mr. Fick** stated that oral statements are allowed during appeal hearings and are recorded, however, statements made in the course of conversations are not binding.

**Michael Johnson**, Department of Labor, stated that there are costs involved with adjudicating cases of fraud. The goal of this rulemaking is to reduce fraud cases and associated costs.

**MOTION:** **Rep. Hancey** made a motion to approve **Docket No. 09-0104-1201**. **Motion carried by voice vote.**

**DOCKET NO. 09-0130-1201:** **Bob Fick**, Department of Labor, presented **Docket No. 09-0130-1201**. He said that this Proposed Rule would define 'corporate officer' for unemployment insurance benefit purposes the same way it is currently defined for unemployment insurance tax purposes. The definition to be added is as follows: "Corporate Officer. Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of corporate officer." This rule seeks to bring the rule into compliance with the law.

In response to questions, **Mr. Fick** said that corporate officers who had control of their time and decided when and if they worked and how much they were paid, were allowed to collect unemployment benefits if they were not working due to lack of work. During the recent recession, approximately 5,000 of 30,000 corporate officers collected roughly \$42 million in benefits. Corporate officers have been allowed to opt out of paying related taxes if they also opt out of collecting benefits. This has stopped a drain on the Unemployment Insurance Trust Fund.

**MOTION:** **Rep. King** made a motion to approve **Docket No. 09-0130-1201**. **Motion carried by voice vote.**

**DOCKET NO. 09-0135-1201:** **Bob Fick**, Department of Labor, presented **Docket No. 09-0135-1201**. He stated that this Proposed Rule would bring consistency to the treatment of members of a limited liability company, under both federal income tax law and Idaho's Employment Security Law. It states, "Any member of a limited liability company that has elected to be treated as a corporation for federal tax purposes shall be treated as a corporate officer for State Employment Security Law purposes." It also clarifies that a person hired as a contractor to do contract work must have a business connected with the work he's going to perform as a contractor.

In response to questions, **Mr. Fick** stated that corporations pay unemployment insurance taxes, however if a business is set up as a sole proprietorship or partnership, it is not the same as a corporation under the law. A form is available that will exempt corporations from certain tax liabilities.

**Michael Johnson**, Department of Labor, stated that for a person to be an independent contractor, he or she must be free from direction and control, in an independently established trade or business. This rule seeks to clarify that, for example, an independent contractor who is doing drywall must have a drywall company, not a bookkeeping service. He stated that an independent contractor must have a business related to services being rendered.

**MOTION:** **Rep. King** made a motion to approve **Docket No. 09-0135-1201**. **Motion carried by voice vote.** **Rep. Holtzclaw** requested to be recorded as voting **NAY**.

**DOCKET NO. 59-0103-1201:** **Don Drum**, Public Employee Retirement System of Idaho (PERSI), presented **Docket No. 59-0103-1201**. He said that this Proposed Rule addresses contribution rates and would delay scheduled contribution rate increases for employers and employees from July 1, 2012, to July 1, 2013. The contribution rate increase was initially addressed by the PERSI Board in 2009. The amortization rate had increased at a rate that required Board action.

In response to questions, **Joanna Guilfooy**, Public Employee Retirement System of Idaho (PERSI), stated that the rate increases are delayed for both employers and employees. The employees' rates would be raised from 6.23% to 6.79%, and employers' rates would move from 10.39% to 11.32%. This rule only addresses the scheduled increases.

**MOTION:** **Rep. Hancey** made a motion to approve **Docket No. 59-0103-1201**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 2:04 p.m.

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Representative Hartgen  
Chair

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Mary Tipps  
Secretary