

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

- DATE:** Tuesday, January 29, 2013
- TIME:** 1:30 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Martin, Lakey, Schmidt and Durst
- 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.
- CONVENED:** **Chairman Tippetts** called the meeting to order at 1:30 p.m.
- Chairman Tippetts** explained the process of how a Routing Slip (RS) becomes a bill. He said public testimony was not taken when an RS was introduced by the sponsor but the committee could ask questions. The committee could then decide whether it would be worthwhile to introduce the RS as a bill. **Chairman Tippetts** said **RS 21709 Relating to Expedited Occupational Licensure for Active-Duty Service Members and their Spouses** would not be considered at this meeting at the request of Senator Durst who was the sponsor, but would possibly be heard at a later date.
- RS 21708** **Relating to Changing State Hiring Practices for Qualified Disabled Veterans**, was presented by **Senator Durst**. He said he appreciated the opportunity to testify regarding this legislation which would change state hiring practices. The option of noncompetitive appointment to state agencies would be established when considering applicants who were qualified disabled veterans. He said this would give state agencies the ability to hire qualified disabled vets, and he asked the committee to send this RS to print.
- MOTION:** **Senator Lakey** moved to print **RS 21708**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
- RS 21834** **Relating to the Health Insurance Exchange** was presented by **David Hensley**, Chief of Staff, Governor's Office. He gave an overview of the history of the task force process started by Governor Otter in the wake of the United States Supreme Court decision that upheld Obamacare. Governor Otter asked a group of people to form a task force to take a look at the law, the state's options and to make recommendations on a path forward. The Task Force overwhelmingly recommended the state proceed in developing a state-based health insurance exchange. He said after the November election, the State of Idaho and the Governor had a choice, which was to establish a state-created, market-driven health insurance exchange that met the needs of the people of Idaho or surrender authority to the federal government. Through the creation of a state-based exchange, the Governor believes the sovereignty of the state will be asserted and decision-making authority over personal health care issues would be maintained for the individual who lives in this state.

Mr. Hensley said it was the public policy of the State of Idaho to actively resist federal actions that would limit or override state sovereignty under the Tenth amendment of the United States Constitution. Through this legislation, the State of Idaho can assert its sovereignty by refusing to surrender decision-making authority over health care issues, which are matters appropriately left to states and individual citizens. He said there was a section in the RS that explained participation in the exchange was voluntary and that no Idaho citizen or employer would be required to purchase a health benefit plan through the exchange. Creation of the exchange and its operation was intended to enhance Idaho residents' choices regarding options and access to health insurance. **Mr. Hensley** said the RS specifically stated this was not a state agency, but a board would be created to govern and oversee the exchange. Of the sixteen members appointed to the board, two would be ex-officio members who could not vote. The voting members would be appointed by the Governor and subject to senate confirmation. Three members would be appointed who represent three different health carriers, two members would represent producers, three members would represent individual consumer interests and four members would represent employer business interests. One of each of those four positions would represent certain types of businesses and two members would represent health care providers. None of the board members or any person working or performing services for the exchange would be state employees. They would not be entitled to or be eligible for any benefits under the state plan or policies.

The RS establishes the mandatory and discretionary duties of the board and some of the limitations of the board. **Mr. Hensley** stated all of the meetings of the board would be subject to the open meetings law of the state of Idaho and an annual independent audit would be required. The board would develop, adopt and implement procurement policies and guidelines. Reporting requirements would be to the Governor, the director and the legislature, beginning in January 2014 and every year thereafter.

Mr. Hensley said some of the discretionary duties of the board would be to perform all duties that would be necessary and appropriate to implement a health insurance exchange, to adopt bylaws and to assess and collect fees from participating health carriers, exchange users or participants. The exchange would be required to be self-sustaining and state funds could not be requested. He noted the exchange did not have the ability to alter its own legal structure nor did it have the power to tax or encumber state assets. The exchange has to be a voluntary marketplace. Providers cannot be precluded from selling insurance within that marketplace as long as they meet the standards of the State of Idaho. He said it was important that neither the exchange nor any agency of the State of Idaho could require any person to use or participate in the exchange. The exchange did not have the authority to impose upon or collect from a person any penalty for failure or refusal to participate in the exchange or to purchase a health benefit plan or stand-alone dental plan. He said the RS allowed the board to rely upon the work done by the Department of Insurance and the Department of Health and Welfare.

Senator Durst said he wanted to see some comparative analysis between this proposal and the federal requirement, on a section-by-section basis, to make sure this exchange met federal requirements. He stated federal overreach was not wanted. He said he wanted a comparison of this governing board and the governing board of other states that have opted for a state exchange, so the committee could get a feel as to what those looked like in comparison to the governing board in this state.

Mr. Hensley explained the state has made their decision based on past practices of the legislature when other similar entities were created for a similar venue.

Senator Durst clarified he was talking about the composition of the board and what the providers and other states were doing currently. **Mr. Hensley** said he would provide the information.

Senator Cameron said he had a conflict of interest under Senate rule 39 as he made his living from health insurance. He said the package of any exchange, in his opinion, would result in less revenue to his business and he wanted to disclose this information and make it a part of the record.

MOTION: **Senator Cameron** moved to print **RS 21834**. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Tippetts passed the gavel to Vice Chairman Patrick to introduce the presenters for the review of the rules being heard.

DOCKET NO. 10-0101-1201 **Review of Rules - Board OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS - 10.01.01 - Rules of Procedure.**

Dave Curtis, Executive Director, said these rules began on page 75 of the pending rule book. He indicated the rules have the support of professional engineering and surveying societies and associations in Idaho. The need for the rule came about because House Bill 374 of the 2012 session of the Idaho Legislature restricted the assignment to the examination for initial licensing or certification to Idaho residents. Residency was not defined in the statute. This rule defined the residency status and the exceptions, which include military personnel stationed in Idaho and persons employed full-time in Idaho. Members of our armed forces and persons who live in border communities are protected. Students at Idaho universities would be exempted. As proof of residency, a driver's license, a utility bill with an Idaho address, a statement from a financial institution, voter registration in Idaho or vehicle registration in Idaho would be accepted. Proof of full-time employment with a statement from the Idaho employer or a student ID card as proof of enrollment in an Idaho university, would also be accepted. He said this had the support of professional engineering societies.

Chairman Tippetts said he noticed negotiated rulemaking was not conducted because of the need to have the rule in effect with House Bill 374. He asked Mr. Curtis to explain the timeline and how negotiated rulemaking would make it difficult to make the timelines. **Mr. Curtis** explained there was a moratorium on rulemaking when the legislature was in session, and it would have been impossible to begin negotiated rulemaking. He said negotiated rulemaking takes a minimum of a month and in many cases, three months. He said it was the first time he could remember they did not go through this process. He stated this rule was not controversial.

Vice Chairman Patrick asked Mr. Curtis if they had any negative feedback. **Mr. Curtis** said they had none.

MOTION: **Senator Durst** moved to approve **Docket No. 10-0101-1201**. **Senator Schmidt** seconded the motion.

Senator Lakey asked if this covered people who were on military orders while in the State of Idaho or if an Idaho resident went into the military service, could they still maintain their residency for these purposes. **Mr. Curtis** said he believed this was correct.

The motion carried by **voice vote**.

Mr. Curtis said the second docket began on page 79 of the Pending Rule book. This rule has been adopted by the Board of Licensure (Board) and is a pending rule. It has the support of professional engineering and surveying societies and associations in Idaho. The need for the rule came about because Administrative Rule Docket No. 10-0104-1101 last year inadvertently exempted permanent non-residents of the United States from compliance with the Rules of Continuing Professional Development. This rule amendment eliminates that inadvertent exemption by stating that particular section of the rule does not apply to permanent non-residents of the United States. The intent of the original rule was to protect individual civilians deployed with the military to such places as Kabul, Afghanistan, where there was not easy access to the internet, which prevented them from keeping up with professional development requirements. He said military personnel were exempt, but upon return to the United States, they had six months in which to make up the continuing professional development requirement. For an individual who was a resident of Canada, for example, they could be legitimately licensed in Idaho and could practice engineering on projects physically located in Idaho. The last phrase, "when they return to the United States" exempted residents of Canada (or any other country) because they probably had no intention of returning to the United States.

Senator Lakey asked how the "two biennia calendar years" was applied. **Mr. Curtis** explained that ongoing continuing professional development requires thirty professional development hours every two years. If one earned more than that, one could carry some hours forward. **Senator Patrick** asked Mr. Curtis to explain the term "permanent non-resident". **Mr. Curtis** said it was someone who was not a resident of the United States and had no intention of becoming one.

MOTION:

Senator Schmidt moved to adopt **Docket No. 10-0104-1201**. **Senator Goedde** seconded the motion. The motion carried by **voice vote**.

Review of Rules - IDAHO DEPARTMENT OF COMMERCE 28.02.05 - Rural Community Block Grant Program (RCBG)

Jeff Sayer, Director of the Idaho Department of Commerce, said there were no changes to the pending rule on page 44 and it was being adopted as originally proposed. This changes eligibility requirements for the population of cities from 10,000 to 25,000. Rural cities with a population between 10,000 to 25,000 were experiencing private sector job growth opportunities, but lacked the financial ability or economies of scale to help fund public infrastructure needed for private business expansion. The current rules are ten years old, so increasing the limit was essentially keeping up with population growth or "right sizing" for the Rural Community Block Grant (RCBG) program. A change would not necessarily add new cities from the original creation of the program. He said he was asking for support to change the number from the 10,000 population requirement to a population of 25,000 or less. He said the automatic question was how many cities came back into the approved population. He stated there were seven cities which were Burley, Blackfoot, Hayden, Jerome, Kuna, Moscow and Mountain Home. Five of those, namely, Burley, Blackfoot, Hayden, Jerome and Kuna, were actually included in the rules when they were first established. He said they were making sure these communities actually qualified for the grants.

A conversation ensued between Senator Durst and Mr. Sayer regarding the requirements for a rural economic zone based on population. They discussed qualifications of adjacent communities relative to rural zones and the scoring process for determining who received grants. **Mr. Sayer** said the Economic Advisory Council oversaw the scoring process and makes a final determination when the grants are conferred, which helps mitigate issues.

MOTION:

Senator Cameron moved to adopt **Docket No. 28-0205-1201**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
28-0206-1201
(NEW
CHAPTER)**

28.02.06 - Idaho Small Business Federal Funding Assistance Act Rules.

Mr. Sayer presented this rule, starting on page 145, stating these rules were functioning as temporary rules. Grant funds of \$50,000 are specifically targeted to support small businesses in acquiring Small Business Research grants (SBR). This is a federal program where a business can be awarded \$250,000 with the second and third grants going beyond that amount. A small business stands to greatly benefit from grant funds. Eleven federal agencies issue SBR Grants. This is an outreach to the public industry.

The state intends to provide incentive funding for Idaho companies that commit private resources toward the process of attracting federal grants. The Department of Commerce administers this program of state grants to assist and incentivize new, emerging, and expanding Idaho small, for-profit businesses in the development of federal funding proposals that lead to the development of commercial products or services. The Department of Commerce will administer this program in such a way as to avoid favoritism of any particular enterprise and to maximize the public purposes of increasing the number of submitted proposals from Idaho small businesses and increasing the number of grant awards to these businesses. Particular attention shall be paid to the encouragement of companies that have not competed for federal funding awards in the past.

Eligibility for the grant and incentive funds is determined through an extensive review and evaluation of proposals by the state coordinator and other professionals, who form an evaluation team.

Mr. Sayer said the application process for these grants can be arduous. The purpose of the grant is to assist those companies in the up-front costs. The grants are \$4,000 each, which allows applicants to hire professional advisors and others to help them in the application process. This grant is referred to as "Phase Zero" because this phase allows the company to get their application together and, hopefully, to receive the grant. Getting the grant for the first time is a significant step. **Mr. Sayer** said they had nine businesses that were asking for these funds.

Chairman Tippetts referred to page 150, Section 02b. He asked what determined the reimbursement rate from a company to the fund. **Mr. Sayer** said that built into these funds was a reimbursement model. The incentive was to create a self-perpetuating block of money that could be deployed to other companies. If the company was successful in securing a grant for less than \$250,000, they are requested to reimburse the grant application costs. If the grant received was \$250,000 or more, the business would be asked to reimburse the grant five times the original investment. **Chairman Tippetts** asked if there was a schedule for determining the amount "up to five times" the amount of the grant award. **Mr. Sayer** said the language they proposed would be up to that amount. Chairman Tippetts and Mr. Sayer discussed how eligibility was determined for Idaho-owned, for-profit and independently operated businesses with 500 employees or less and how a true small company qualified. The company could not be part of a large subsidiary.

Senator Martin referred to page 147 and asked about the \$50,000 from the general fund and the allocation of that money. **Mr. Sayer** said the money was already allotted in the last fiscal cycle.

Vice Chairman Patrick asked if there was any input from the public and **Mr. Sayer** said they had no input, but he said the industry was very aware and very excited.

MOTION: **Senator Martin** moved to adopt **Docket No. 28-0206-1201 (New Chapter)**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Patrick passed the gavel to the Chairman.

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 2:17 p.m.

Senator Tippetts
Chairman

Linda Kambeitz
Secretary