

MINUTES
HOUSE BUSINESS COMMITTEE

DATE: Thursday, January 23, 2014

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Henderson (Chambers), Vice Chairman Thompson, Representatives Collins, Crane, Palmer, Barbieri, Batt, Agidius, Clow, Hixon, Kauffman, Monks, Morse, Stevenson, Youngblood, Smith, Rusche, Gannon

**ABSENT/
EXCUSED:** Reps. Kauffman, Collins

GUESTS: Josh Watts, Registered Contractor; Tyler Mallard, IBCA; Phil Hardy, Strategies 360; Justin Lee, Schindler Elevator; Mick Williams, OBS; Tom Donovan, Department of Insurance; Tom Gilbert, IBCA; Chris Gow, IBCA; Tony Smith, Idaho Chapter of American Institute of Architects; Dave Yorgason, IBCA, BCASWI; Larry Benton, Cosmetology Schools; Steve Martinez, IBCA; Ted Martinez, IBCA; Pat Minegar, IBCA; Leon Duce, AIC; Dennis Schaffner, IBCA; Chuck Miller, IBCA; Jake Centers, BCA, Brad Hunt, OARC; Joel Morden, Hubble Homes; Jon Hastings, Tredro Homes; Greg Hathaway, Hubble Homes; Clint Wall, Tahoe Homes; Russell Westerberg, Truth Justice + Etc; James Chyd, James Chyd Construction Homes; Tony Luchiri, Tahoe Homes; Julie Taylor, Blue Cross of Idaho; Shad Priest, Regence Blue Shield; Woody Richards, Insurance Companies; Matt Fisher, Ginna Construction/IBCA; Jeff Fitzluft, Underwriters Laboratories; Dave Poidy, City of Boise; Raub Owens, City of Twin Falls

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

RS 22580: **Rep. Bateman** presented **RS 22580** relating to a method whereby an active status residential building contractor may become an inactive status contractor during which time liability insurance shall not be required to submit bids. He said this is brought forth at the request of several contractors who are experiencing difficult economic times and this legislation is designed to assist them. He said contractors would pay a fee of \$35 to the Bureau of Occupational Licenses to place the contractor registration as an inactive status during which signs posted on properties would remain in place and the contractor could submit bids. He explained that once bids are accepted, the contractor would pay another \$35 fee and resume active status. He added this would not allow a contractor to begin work without liability insurance coverage. He said it encourages entrepreneurship and establishment of new contractors in the business community.

Josh Watts, Registered Contractor, spoke **in support** of **RS 22580**. He said it is designed to reduce overhead costs during times of seasonal lull and enables bidding without incurring the cost of liability insurance coverage. He said currently he can't offer bids without liability insurance coverage in place. He said the change would alleviate a start up cost for small businessmen and make residential building contracting easier and more attractive to entrepreneurship. In response to questions from the Committee, he said contractors in Idaho are called registered contractors rather than licensed contractors. He said the contractor would have to show proof of insurance to the clients prior to the start of projects.

Rep. Monks invoked Rule 38 stating that he has a possible conflict of interest as he is a registered contractor and that he intends to vote.

Rep. Crane invoked Rule 38 stating that he has a possible conflict of interest as he is a registered contractor and that he intends to vote.

MOTION:

Rep. Palmer made a motion to introduce **RS 22580**.

Rep. Morse spoke to the motion and said **RS 22580** would have benefitted from collaboration with the Department of Insurance. He explained that licensing and insurance requirements for contractors are an issue of public protection.

In response to further questions from the Committee, **Mr. Watts** said the bidding process is integral to the business of contracting. He said general liability insurance does not cover errors in bids, rather it covers accidents on the job site. He explained the bid bonds cover mistakes in the bid. He said the cost of liability insurance may be listed as a line item in a bid. He said the bid number may not be raised to add the cost of liability insurance after a job is procured. He said the insurance is in effect for a period of time and not based upon a project size. He said the allowance for signs posted on properties for sale refers to speculative homes and building lots where no general liability insurance is needed as no work is being conducted. He said general liability insurance is an annual policy which does not become inactive when the contractor has no work. However, current regulations say a contractor cannot have a website or signage on properties without being a registered contractor and this, in turn, requires general liability insurance to be in place.

In response to questions from the Committee, **Rep. Bateman** said he did not consult the Idaho Building Contractor's Association for the crafting of this legislation. He said he is bringing **RS 22580** before the Committee at the request of a constituent.

Rep. Batt spoke in support of introducing **RS 22580**.

**ROLL CALL
VOTE:**

Chairman Thompson requested a roll call vote on **RS 22580**. **Motion carried by a vote of 11 AYE, 5 NAY and 2 ABSENT/EXCUSED. Voting in favor of the motion: Reps. Crane, Palmer, Barbieri, Batt, Agidius, Hixon, Monks, Stevenson, Youngblood, Rusche, Henderson (Chambers). Voting in opposition to the motion: Reps. Thompson, Clow, Morse, Smith, Gannon. Absent/Excused: Reps. Kauffman, Collins.**

RS 22548

Phil Hardy, Strategies 360, presented **RS 22548** relating to elevator contractors, elevator mechanics, elevator trainees and the Idaho Elevator Safety Act. He said there are currently in 3,085 elevators in Idaho registered with the Division of Building Safety and the rules are currently not found in Elevator Safety Code, rather they are within the Electrical Code. He explained similar legislation has passed in Utah, Montana, Oregon, and Washington. He said members of the Building Owners and Management Association (BOMA), the Associated General Contractors (AGC), commercial real estate managers, and Otis Elevators were consulted about **RS 22548**. He said there is no known opposition.

In response to questions from the Committee, **Mr. Hardy** said this statute refers to commercial and public conveyances only. He said the language defines contractors and mechanics. He added that no new safety boards or standards are created, nor will additional hiring be required of the Division of Building Safety in order to administer these changes. He said fees will go up marginally. He confirmed all sections regarding elevator contractors, elevator mechanics, elevator trainees currently within the Idaho Electrical Code will be moved, in their entirety, to the Idaho Elevator Safety Act. He said **Section 39-8616.5 (a) - (e)** are fees which are not currently in the Idaho Electrical Code.

Rep. Barbieri spoke in opposition to **RS 22548**. He said the Statement of Purpose appears to be inadequate for the purpose of introduction.

Rep. Batt spoke in opposition to **RS 22548**. She said issues of fees and licenses need to be addressed fully in the Statement of Purpose.

Rep. Crane spoke in opposition to **RS 22548**. He said the Statement of Purpose must be rewritten to discuss the additional fees in **Section 39-8616.5**.

MOTION:

Rep. Barbieri made a motion to return **RS 22548** to the sponsor for revisions to the Statement of Purpose. **Motion carried by voice vote.**

H 358:

Tom Donovan, Department of Insurance, presented **H 358** relating to Risk Based Capital (RBC) reporting requirements and as a monitoring system for insurance companies. He said this legislation seeks to amend **Title 41, Chapter 54** of Idaho Code. He said Risk Based Capital reporting is a regulatory tool used to assist the Department of Insurance to identify companies approaching dangerous financial levels at an early stage. He said insurers are required to file a RBC report with their annual financial statements.

Mr. Donovan said two other types of entities who already file financial statements with the Department of Finance will also file an RBC Report. These are health organizations and fraternal benefit societies. He defined health organizations as hospital service or professional service corporations. He said two such entities are currently licensed in Idaho, one of which voluntarily submits the RBC Report. He described fraternal benefits societies as those which offer members benefits that are similar to those offered by insurance companies. He said no fraternal benefits societies are currently domiciled in Idaho. He added both types of entities are regulated by the Department of Insurance and subject to the Director's authority. He said an accreditation standard commencing January 1, 2015 will require RBC reporting for these two types of entities and 37 states have adopted this requirement at this time. He said the National Association of Insurance Commissions (NAIC) model, adopted in 1998, predates the Patient Protection and Affordable Care Act and does not, in any way, pertain to it.

Mr. Donovan further clarified the protections afforded the Director of the Department of Insurance regarding confidential Risk Based Capital Reports. He said the updated language in **H 358** makes clear that RBC financial documents are not subject to subpoena. He said including health organizations in RBC reporting would not have the consequence of applying to hospitals or other providers who are not currently subject to the Department of Insurance regulations. Rather it applies to a company offering vision benefits and another offering dental benefits. He said there are 14 fraternal benefits societies licensed in Idaho, however none are domiciled in Idaho. He explained that fraternal benefits societies are subject to Risk Based Capital reporting in the states in which they are domiciled. He said NAIC has one affiliate, which does not have access to nor receive any financial information from NAIC. He said NAIC is a collective group of the insurance regulators in 54 jurisdictions (all of the states, Washington, D.C., United States Territories) who collectively share best practices, information, set accreditation standards, receive input from consumer groups and the industry, to work cooperatively.

In response to questions from the Committee, **Mr. Donovan** discussed insurance company failures in the 1980's which prompted a response. He said fraternal benefits societies were included, not due to any specific failures, rather because they already file financial statements and are subject to RBC reporting in their home states. He said there is no extra cost to the Department of Insurance for handling the RBC Reports as they are attachments to the annual financial statement.

MOTION:

Rep. Rusche made a motion to send **H 358** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Barbieri** requested that he be recorded as voting **NAY**. **Rep. Youngblood** will sponsor **H 358** on the floor.

Rep. Youngblood spoke in support of the motion. He said Risk Based Capital reporting is for the protection of consumers.

Rep. Barbieri spoke in opposition to the motion. He said he has concerns regarding the increase in regulatory authority given to the Department of Insurance.

H 360:

Roger Hales, Bureau of Occupational Licensing, presented **H 360** relating to updating the Idaho Board of Architectural Examiners law to conform to recent changes made to the nationally administered internship and examination. He said architectural internship is no longer measured in years, rather it is measured in completion of education modules.

Mr. Hales said the bill adds two additional grounds for the discipline of a licensee; one for violation of a Board order, and another if a licensee is disciplined in another state.

Mr. Hales said the bill eliminates registration of firm names as Idaho only registers individuals.

Mr. Hales said **H 360** clarifies use of electronic seals and what the electronic seal consists of.

Mr. Hales said **Section 54-316** of Idaho Code is deleted. He said imitations on foreign architecture corporations are unnecessary as Idaho does not license corporations only individuals. He explained the Board of Professional Engineers and Land Surveyors is aware of these changes and has posted them on the Board website. He noted the receipt of two comments, and the small change in language occurred due to this response. He said otherwise there is no known opposition.

MOTION:

Rep. Rusche made a motion to send **H 360** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Rusche** will sponsor the bill on the floor.

H 363:

Roger Hales, Bureau of Occupational Licensing, presented **H 363** relating to the Idaho Board of Cosmetology adding a license exemption to allow a person to practice on a relative, clarifying the practice of an apprentice, and clarifying the school representative member of the Board. He said this bill reduces regulations and clarifies the law. He said a person practicing on a relative without compensation does not require a license.

Mr. Hales said the language regarding practice of a licensed apprentice is easier to follow and understand and that no additional regulations are proposed.

Mr. Hales said **Section 3. 54-829** clarifies qualifications of Board Members. He said Board Members may now be affiliated with a school of cosmetology.

In response to questions from the Committee, **Mr. Hales** said adding the license exemption for a person practicing on a relative is in answer to a specific issue with taking care of a family member in a home setting. He added it is not intended to cover a person practicing on a person who is not a relative as there are sanitary requirements and issues of public safety which may arise.

MOTION:

Rep. Gannon made a motion to send **H 363** to General Orders. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.

Chairman Thompson announced the impending return of **Rep. Henderson**. He extended the thanks of the House of Representatives Business Committee members to **Rep. John Chambers** for his service.

ADJOURN: There being no further business to come before the Committee, the meeting was adjourned at 2:47 p.m.

Representative Thompson
Chair

Catherine Costner
Secretary