

MINUTES
HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Wednesday, January 29, 2014

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: Ed Johnson, Auto Start, Inc.; Ryan Navin, Valli Information Systems; Amber Dina, Givens Pursley; Greg Kunz, DHW

Chairman Hartgen called the meeting to order at 1:28 p.m.

MOTION: **Rep. Woodings** made a motion to approve the minutes of January 27, 2014.
Motion carried by voice vote.

H 408: **Bill Burns**, Division of Purchasing, presented **H 408**, which would enable the Department of Purchasing to promulgate rules in the conduct of purchasing for the State. This would not change the existing administrative rules process. Any rules of the Division of Purchasing would require legislative approval.

In response to a question regarding the chain of command in purchasing, **Mr. Burns** stated that agencies under the purview of the Department of Purchasing would continue to work through the Department of Purchasing in order to make purchases.

Julie Weaver, Deputy Attorney General for the Department of Administration, responded to the same question, saying this bill simply clarifies that rules would be broadly applied to anyone operating under the authority of the Department of Purchasing.

Mr. Burns, in response to a question, explained that the Idaho Transportation Department, as well as universities, with the exception of Boise State University and the University of Idaho, do fall under the purview of the Division of Purchasing.

Julie Weaver answered a question regarding whether this bill will create a change. She stated that this bill simply adjusts language to clarify what is already being done and it would not bring any changes.

MOTION: **Rep. Mendive** made a motion to send **H 408** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Mendive** will sponsor the bill on the floor.

H 409: **Keith Reynolds**, Department of Administration, stated the Department of Administration is requesting a change to the fiscal note for **H 409**. He explained that the proposed new language "Any direct fiscal impact to agencies will be minimal" should replace the existing language.

MOTION: **Rep. Anderson(31)** made a motion to accept the revised fiscal note for **H 409**.
Motion carried by voice vote.

H 409:

Bill Burns, Division of Purchasing in the Department of Administration, presented **H 409**, which he said would allow a competitive evaluation process for potential vendors for state printing, binding, engraving or stationary work. Existing requirements for procurement of printing services were written in 1903. Many aspects of the printing work done by state agencies have evolved since then including technology and privacy laws. Mr. Burns said that under current statute, if printing is even a small component of a contract the award must be made solely on the basis of price. The Division is not allowed to take into account whether a vendor will be able to maintain privacy practices, or send notices in a time frame required by law, or whether the quality of the work will be acceptable.

Greg Kunz, Department of Health and Welfare (DHW), testified **in support of H 409**. He explained that currently DHW processes close to 300,000 to 400,000 individuals through their eligibility system. The results are required to be shared with applicants in the form of eligibility notices. Each notice must be printed and organized, then distributed to individual applicants. He explained that items contained in applications and eligibility notices can contain information that could be used in identity theft. He said it is necessary to ensure that notices go to correct individuals, and currently there are cases of notices going to incorrect parties. Additionally, notices are time sensitive and are required to reach individuals within specific time frames. Under the current system of being able to hire vendors only based on price when printing is involved, DHW is struggling to adequately serve.

In response to questions, **Mr. Kunz** stated that DHW typically contracts with vendors for long periods of time, however he is sure there is a large range of time frames involved in service provider contracts.

Responding to additional questions, **Mr. Burns** explained that the Deputy Attorney General looked into the legislative intent from 1903, however it was not located. He said that in 1975 the Idaho Legislature declared that price is not always the best way to measure value. He believes, therefore, that **H 409** is in alignment with legislative intent. He also expressed that preference will remain with Idaho vendors.

Ed Johnson, Auto Start Commercial Mailing Service, spoke **in opposition to H 409**. He said he has twice competed for a mixed services contract with the Department of Health and Welfare (DHW). He believes his business could adequately serve DHW, however his business was not awarded a contract during either bid. He stated that DHW is currently using an out-of-state vendor who is charging more than he would have charged. He said **H 409** contains redundancy and is unnecessary because statute already allows the Division of Purchasing to consider factors other than price when evaluating bids.

Mr. Johnson responded to questions saying current contracts for printing services for DHW did not go to the lowest bidder. He said he received no reasonable response from DHW when he asked why his business was not awarded the contract on which his business made bids. He stated another bidder referenced that his facility was paid for, and this was an item considered by the committee selecting a vendor.

Ryan Navin, Valli Information Systems, spoke **in opposition to H 409**. He said his company is one of the largest variable data printers in Idaho. They offer a range of services including mailing notifications. He stated that DHW failed to identify any reason for the changes they are requesting in **H 409** outside of a single bid award, however there is industry-specific language in the bill.

In response to questions, **Mr. Navin** said his objections include that there is not a definition of "mixed services" in the bill's language, and the fact that Idaho providers can offer both a lower cost alternative and less mailing time due to proximity to recipients. He said some ambiguity exists in the interpretation of information contained in Requests for Proposals (RFPs). His company spent several weeks compiling information for their RFP for the DHW contract. One area that DHW asked about in their RFP was disaster recovery. Valli Information Systems has disaster recovery plans in place including an additional facility located in Alaska that can be used in case the Idaho facility is unusable due to a disaster.

Mr. Johnson returned to answer additional questions. He said Auto Start has had a relationship with DHW since 1995, during which time they were contracted to operate in a variation of the current process. Six years ago, DHW added statement imaging to their requirements, and Auto Start submitted an RFP stating they could continue to provide services including statement imaging, which they were both capable of and experienced in. He said passage of this bill narrowly focuses on the printing aspect of awards and does not provide for a wide berth of services. He said there is no printing company in Idaho that only provides printing.

Paul Spannkebel, Department of Health and Welfare (DHW), stated all RFPs below \$25 million pass over his desk. He stated he is confident the process they undertake with the Division of Purchasing is very strong, and is a rigorous, arduous process both for bidders and evaluators. He said in 2009, DHW's needs changed and they requested new RFPs, which they evaluated. A new contract was awarded. Four years later, another change occurred and more RFPs were requested. The contract was awarded to the incumbent. He explained that a majority of printing, as a commodity, stays in Idaho.

In response to questions, **Mr. Spannkebel** said there is a spectrum of services provided within the current definition of printing.

Sarah Hilderbrand, Department of Administration, said over the years the state has held a number of service contracts with only a small printing element. Invitations to Bid (ITBs) are awarded based on lowest cost. With RFPs, the Division looks for limited risk and strong capabilities. Technical responses are the main elements that are evaluated in RFPs. She said any time printing is involved in a contract, for example, if a marketing vendor is asked to produce twenty paper packets for distribution, the job becomes a printing job and must be evaluated differently under current law, which Ms. Hilderbrand pointed out is 111 years old.

Mr. Burns responded to additional questions. He said if a bidder requests information about why they were not awarded a contract, that bidder would be shown his or her scores, but would not be shown the scores of other bidders. The intent of this law is to increase the value of products and services utilized by the state.

Ms. Hilderbrand responded to a question. She said no particular individuals were consulted regarding this bill because it would affect so many agencies. She said anyone who is interested is welcome to attend meetings during which they can ask questions and request modifications or additions.

In response to a question, **Ms. Weaver** said changes to statute cannot be made as part of the administrative rules process.

Mr. Burns returned to respond to questions. He said the state may award contracts for vendors with higher costs, or with lower costs. Price will not be the only criteria considered when contracts are awarded.

Rep. Woodings stated she has concerns with the words "solely" on line 39 and "property in addition to printing" on line 1. She stated this is not as succinct as she would like. She would like to see better definitions of print-only contracts and mixed services.

MOTION: **Rep. Woodings** made a motion to **HOLD H 409** in committee.

Rep. Harris stated he cannot support the motion, however he does share some concerns.

Chairman Hartgen spoke **in support** of the motion. He said revising this area of Idaho Code makes sense, however he believes more work is needed on this bill.

VOTE ON MOTION: **Chairman Hartgen** called for a vote on the motion to **HOLD H 409** in committee. **Motion carried by voice vote.** **Rep. Harris** requested to be recorded as voting **NAY**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:49 p.m.

Representative Hartgen
Chair

Mary Tipps
Secretary