

MINUTES  
**HOUSE BUSINESS COMMITTEE**

**DATE:** Wednesday, February 11, 2015

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

**PLACE:** Room EW41

**MEMBERS:** Chairman Barbieri, Vice Chairman Clow, Representatives Collins, Crane, Palmer, Thompson, Batt, Hixon, Kauffman, Monks, Anderst, Beyeler, DeMordaunt, Dixon, Troy, Smith, Rusche, Jordan

**ABSENT/  
EXCUSED:** None

**GUESTS:** Ron Law, IDPC; Neil Colwell, Avista Corporation; Andrew Mitzel, Realtors; Maurice Ellsworth, Bureau of Occupational Licenses; Tana Cory; Kate McCaslin, ABC; Jane Wittmeyer, ABC; Matt Newton, ABC; Marty Durand, Idaho Building Trades; JR Finlay, IBCTC; Robert Pilote, Idaho Contractors Board; Kelly Pearce, DBS; Bill Hatch, DBS; Tyler Mallard, IBCA; John Eaton, Realtors; Mark Zaleski, IBEW L.U. 291; Benny Antunes, IBEW L.U. 291; Heidi Brough-Nye, RCAL Board

**Chairman Barbieri** called the meeting to order at 1:30 PM.

**RS 23432:** **Phil Hardy**, Vice President of Government Relations with Strategies 360 and representing National Elevator Industry, Inc., presented to the committee **RS 23432**. He said the provisions for the licenses associated with installation and maintenance of elevators are not found in the Idaho Elevator Safety Code Act of 2004 but in the electrical code rules. He explained that while elevators are powered by electricity, they are increasingly sophisticated, computerized-mechanical, mostly hydraulic devices requiring very special and unique skills in order to install and maintain them. This legislation, if enacted, would move and define the requirements for obtaining and holding the licenses to work in this field from electrical code rules and place them in the Idaho Elevator Safety Code Act.

**MOTION:** **Rep. Anderst** made a motion to introduce **RS 23432**. **Motion carried by voice vote.**

**RS 23283:** **Maurice Ellsworth**, Legal Counsel for the Bureau of Occupational Licenses, presented to the committee **RS 23283**. He said the proposed legislation updates the list of boards and commissions which whom the Bureau contracts. It also clarifies the authority of the Boards and Commissions so they can assess and collect attorney fees incurred from a licensee or registrant who is found to have violated their laws or rules. This is in response to a Supreme Court decision that held the Bureau's statute must specifically authorize the collection of attorney fees. He explained that every board served by the Bureau is self-supporting; no general tax dollars are received into the Bureau's dedicated funds. If a Board is unable to recoup the costs and fees from violators, the only alternative is to raise fees from all licensees and registrants.

In a response to a question, **Mr. Ellsworth** said there is no cap to the fee. If the individual has an objection to the cost, a hearing can be requested.

**MOTION:** **Rep. Beyeler** made a motion to introduce **RS 23283**.

In response to a question, **Mr. Ellsworth** said there is no provision to distinguish an unintentional or good-faith violation of the law. Because the Boards are made up of practitioners of the profession, the intent is for sensitivity to those who work in the profession.

**VOTE ON  
MOTION:**

**Motion carried by voice vote.**

**RS 23247:**

**Maurice Ellsworth**, Legal Counsel for the Bureau of Occupational Licenses, presented to the committee **RS 23247**. He said this proposed legislation would repeal Section 2614 which outlines the procedure for renewal, reinstatement and re-licensure of reregistration by individuals or entities licensed or registered by Boards and Commissions served by the Bureau. He said, because of the extensive rewrite of the section, Legislative Services recommended a new section be written.

**Mr. Ellsworth** continued by saying the changes are mostly organizational, making it easier for all to understand and apply. In addition, it eliminates the current statute's requirement that all past annual fees be paid for the period the license or registration was expired, before it can be reinstated. Instead, the subsection raises the reinstatement fee to \$35. He said, in addition, Subsection 7 provides for re-licensure or reregistration by someone whose license or registration has been expired for more than five years by allowing the Board or Commission, instead of the Bureau, to review the individual situation to determine what is required to assure current competency to practice.

In response to a question, **Mr. Ellsworth** said reinstating a license as opposed to applying for a new license is usually cheaper due to higher fees for new applications.

Concern was expressed by several Representatives as to the added language regarding attorney fees.

**MOTION:**

**Rep. Batt** made a motion to introduce **RS 23247**. **Motion carried by voice vote.**

**RS 23570:**

**Ron Law**, of the Idaho Damage Prevention Coalition, presented to the committee **RS 23570** which improves public health and safety, and reduce damages associated with digging near underground facilities by the creation of a system of self-regulation and education through a Damage Prevention Board housed under the Division of Building Safety.

**Mr. Law** said although resources and effort have been expended to prevent damages to underground facilities, damages keep occurring at an alarming rate. He accounted, according to federal government's statistics, Idaho's damage rate is twice that of the national average and higher than any surrounding states. As a result, three years ago, it was decided a concerted effort driven by stakeholders was needed to significantly reduce the number of damages occurring. The resulting stakeholder group included more than 45 organizations and focused on ways to improve the Dig Law to make it a better, more effective damage prevention tool. He said the main goal for this legislation is for all diggers to call to get their underground facilities located and marked before they initiate digging. This service is free to the caller.

In response to a question, **Mr. Law** said the new legislation would require mandatory reporting of damages so the Board can determine if their efforts are making a difference. The numbers they are currently working with are calculations based from reports to the federal government and the Idaho Public Utilities Commission from the gas companies.

In response to questions, **Neil Colwell**, Avista Cooperation, reiterated the importance for the mandatory data reporting to guide the board's educational efforts with the general public and the excavator community. He continued, the language would change the legislative intent from an ineffective system of compliance that was court driven with civil penalties, to one of self-regulation and education. It also defines the stakeholders who share in this self-regulation. He said any fines issued could only be used for education and outreach. Because a violation of the Dig Law can also be a violation of a licensing provision, a corresponding Board may be notified. This legislation does allow for rule making authority and is based off of similar models in Oregon and Washington.

**Mr. Colwell** further responded that a per-call fee to the underground facilities owners, established by the board and promulgated by rule, would be deposited in the Damage Board Fund. A federal grant will be applied to establish the board. He said, the way the legislation is currently written there is no provision for a public member to be on the board. He remarked that instead of being fined, the emphasis for homeowners would be education.

**MOTION:** **Rep. Thompson** made a motion to introduce **RS 23570**. **Motion carried by voice vote.**

**RS 23587:** **Chairman Barbieri** announced **RS 23587** was withdrawn by the sponsor.

**RS 23573C1:** **Kate McCaslin**, President of the Associated Builders and Contractors, IPC, presented to the committee **RS 23573C1** which gives guidance to public owners regarding the use of the construction manager/general contractors (CM/GC) contracting method. It provides safeguards to ensure taxpayers are protected from unscrupulous contractors who may use the CM/GC method to their own advantage. It also provides subcontractors protections to ensure they have fair opportunities to participate on Idaho public works projects.

**Ms. McCaslin** said, in construction management, a public owner selects and hires an expert consultant who guides them every step of the way during the process. Until last year, Idaho's construction management was restricted to only consulting and had to abide by all of Idaho's other public bidding statutes. Last year, an amendment was approved so the CM/GC method could be used, meaning that once project design progresses, the contract could be rolled into general contractor work so the construction manager now can self-perform work for the owner as well as serve their own interests. She emphasized her association's support of alternative construction delivery methods, provided important protections are embedded to protect the public owner and other players, such as subcontractors and suppliers. She believes the statute as passed does not adequately address these issues.

**MOTION:** **Rep. Troy** made a motion to introduce **RS 23573C1**.

**Rep. Crane** invoked Rule 38 stating a possible conflict of interest because the company he is employed with is a member of the organization bringing this proposed legislation to the committee.

**VOTE ON MOTION:** **Chairman Barbieri** called for a vote on the motion to introduce **RS 23573C1**. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 2:52 PM.

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Representative Barbieri  
Chair

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Francoise Cleveland  
Secretary