

MINUTES  
**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Thursday, March 19, 2015

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Martin, Lakey, Heider, Lee, Schmidt and Ward-Engelking

**ABSENT/  
EXCUSED:** None

**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. and welcomed all.

**MINUTES APPROVAL:** **Senator Cameron** moved to approve the Minutes of March 10, 2015. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Martin** moved to approve the Minutes of March 12, 2015. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL  
APPOINTMENT AND  
HEARING:** The appointment of Celia Gould of Boise, Idaho, to the Public Employee Retirement System of Idaho (PERSI) Board (Board), term commencing March 11, 2015, and expiring on July 1, 2018. **Ms. Gould** said she had served on the House Judiciary and Rules Committee, and she owns and operates a family ranch in Buhl. For the last eight years, she has served as the Director of the Idaho State Department of Agriculture Board (ISDA). One of her greatest accomplishments was leading ISDA through the Great Recession. She said public employees are the greatest assets to the State, and she is looking forward to serving on the PERSI Board. **Senator Cameron** stated that Ms. Gould was a great servant to the State.

**GUBERNATORIAL  
APPOINTMENT:** **Senator Cameron** moved to send the gubernatorial appointment of Celia Gould to the PERSI Board to the floor with the recommendation that she be confirmed by the Senate. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Ward-Engelking will carry the appointment on the floor.

**GUBERNATORIAL  
APPOINTMENT AND  
HEARING:** The appointment of Rod Higgins of Boise, Idaho, to the State Insurance Fund Board (Board), term commencing April 3, 2014 and expiring April 3, 2018. **Mr. Higgins** said he was a licensed insurance agent and a graduate of Boise State University. He said he believes what the Board has done with the general fund is commendable.

**Senator Cameron** remarked that Mr. Higgins has done a fantastic job. He asked Mr. Higgins how he would handle any potential conflicts or did he perceive any conflicts. **Mr. Higgins** said conflicts were not a problem. He stated he sells insurance for the State Fund and for other independent carriers and this has not been an issue.

**GUBERNATORIAL  
APPOINTMENT:**

**Senator Cameron** moved to send the gubernatorial appointment of Rod Higgins to the State Insurance Fund Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Lee** seconded the motion. The motion carried by **voice vote**. Senator Hagedorn will carry the appointment on the floor.

**H 179:**

**Investment Limitations for Hospital District Treasurers.** **Emily Patchin**, representing Kootenai Health Medical Center, speaking on behalf of Jeremy Pisca, said this bill provides investment opportunities for the treasurer of a hospital district or county hospital to invest idle funds. The investment will be limited to investments that carry an "A" rating or better by a commonly known rating service and that are authorized by the Legislature for the State Treasurer. This gives hospitals the ability to diversify their investments, thus keeping their reserves safe from interest rate risk.

**Senator Martin** and **Ms. Patchin** had a conversation about investing funds in the same manner as the State Treasurer. **Chairman Tippetts** clarified with Ms. Patchin that this bill is giving the treasurers greater investment options. He asked her to give examples of the kinds of investments that would be allowed with the passage of this bill. **Ms. Patchin** deferred to Kim Webb, Chief Executive Officer (CEO), Kootenai Health. **Ms. Webb** said hospitals are generally limited to United States (U.S.) Treasury and government-related bonds and agency mortgage-backed securities. Recently, the fund returns have been extraordinarily low because of interest rate risk. She said the banks would like to have the same options as the State Treasurer, which primarily provide the opportunity to invest in prime commercial paper bonds, notes of corporations in the U.S. that have an "A" rating or higher. **Chairman Tippetts** asked Ms. Webb if she could give a brief assessment of comparative risk between the types of allowable investments and the other group of investments that would be allowed. **Ms. Webb** said with treasuries and municipalities there is probably a different type of risk, which is interest rate risk. She said with high-rated corporate bonds there is a credit risk. When interest rate risk is a little higher the bank can diversify, which provides a safety net.

**TESTIMONY:**

**Senator Cameron** wanted to know if there were restrictions for privately-owned hospitals. **Ms. Webb** said there were no restrictions on privately-owned or not-for-profit hospitals. They can invest in equities and mutual funds. **Senator Cameron** pointed out that a county-owned hospital is overseen and has the backing of the county. He wanted to know if the county treasurer invests idle funds with the State Treasurer in the Idaho Pool Fund would this allow the local county hospital to invest in a similar type investment structure. **Ms. Webb** said that was correct.

**Senator Heider** said he was concerned about what types of return on investments the banks are receiving now. **Ms. Webb** said in 2012 and 2013, the banks had approximately a 1 to 2 percent loss on investments. Currently, there is a 2 percent income, which potentially provides for a higher rate of interest and a better opportunity to safeguard bank funds. Higher-rated bonds rarely default which allows the banks to diversify.

**Senator Schmidt** wanted to know how many were district hospitals. **Ms. Webb** said she thought there were approximately nine. **Senator Schmidt** wanted to know if Ms. Webb had spoken with other treasurers in other districts. **Ms. Webb** stated Kootenai Health has worked through the Idaho Hospital Association. **Senator Schmidt** said he had a concern about burdening a treasurer in a small hospital district who does not have the

capability of investing. **Ms. Webb** said treasurers in small hospital districts do not have to utilize this opportunity if they do not feel comfortable. She said Kootenai was the largest hospital district in the State, and they have the ability to have financial advisors to help with financial decisions.

**Senator Lee** referred to line 34 of the bill and wanted to know if idle moneys were in a savings account or invested. **Ms. Webb** said according to her research, the treasurers of hospital entities are required to be prudent investors making appropriate investments with some restrictions. **Chairman Tippetts** said there was a potential concern that a requirement may be imposed on treasurers that is not current practice. He wanted to know if currently there is a statutory requirement that it is the treasurer's responsibility to invest funds, or is this legislation potentially taking away the opportunity for someone other than the treasurer to have that responsibility. **Jeremy Pisca**, representing Kootenai Health, said the prudent investor standard is a common law standard that is imposed upon a treasurer. The treasurer also has a fiduciary duty as the treasurer of an organization. The language in the bill is redundant.

**Senator Martin** asked Mr. Pisca if the recommendations by the State Treasury Investment Board to change how money is invested would be for the treasurer or for the Legislature. He wanted to know if Mr. Pisca was aware of the investment structure, and would the bill have an effect on the structure. **Mr. Pisca** said he was not aware of the effect on the structure and referred to line 38. He referred to Idaho Code §§ 67-1210 and 67-1210a, which directly tie the investment of idle money to the statute and allows the state treasurer some options.

**MOTION:**

**Senator Cameron** moved to send **H 179** to the floor with a **do pass** recommendation. **Vice Chairman Patrick** seconded the motion. The motion carried by **voice vote**. Senator Tippetts will carry the bill on the floor.

**H 238:**

**Electrical Contractors - Equipment Exemption. Representative Batt** said she worked with the Southwest Idaho Manufacturer's Alliance (SWI-MA), relating to manufactured industrial equipment. This bill will specifically exempt industrial equipment from being listed by a nationally recognized testing laboratory. She said Idaho's current requirement for the listing of industrial equipment is inconsistent with the National Electrical Code (NEC) and should not be required. **Representative Batt** said the listing requirement places an undue burden on Idaho's manufacturers and is hurting the manufacturing economy. The public is not allowed around these machines and only well-trained people operate these industrial machines.

**TESTIMONY:**

**Sheri Johnson**, Board President, SWI-MA, testified in support of the bill. She said she owns and operates a manufacturing business that utilizes industrial equipment. She said her company obtained Underwriters Laboratories (UL) certification. A Nationally Recognized Testing Laboratory (NRTL) is an Occupational Safety and Health Administration (OSHA) designation given to testing facilities that provide product safety testing and certification services to manufacturers. The intent is for manufacturers to certify their products and offer that certification as a benefit to their customers. These types of certifications are intended for the original equipment manufacturer, not the consumer utilizing the product. **Ms. Johnson** said unique equipment often has to be imported. Other countries often use different certification standards, but not necessarily unsafe ones. Oftentimes, this equipment is engineered and built by a limited number of manufacturers. It is in the manufacturer's best interest, as well as business owners, to buy appropriate equipment from proven companies.

**Ms. Johnson** stated that as manufacturers, safety is of utmost concern; however, this is not a safety issue. The code does not address equipment that is plugged in, only equipment that is hard-wired. Businesses in Idaho have been crippled due to excessive and unnecessary regulation costs, which cost time and money, negatively impact expansion, productivity and the creation of jobs without adding any safety benefit.

**Chairman Tippetts** wanted to know why this problem was just now coming forward as he did not recall there being a problem in the past. **Ms. Johnson** said the matter was brought to SWI-MA due to an inconsistent interpretation of the law relating to industrial equipment.

**Senator Schmidt** stated that he understood Ms. Johnson's company manufactures chillers that are UL certified. **Ms. Johnson** said she wanted the Committee to become familiar with the UL process and the intent of original equipment manufacturers, called Original Equipment Manufacturers (OEM) of chillers. The intent is to certify the equipment at the time of manufacture, and not for the buyer of the equipment to have to obtain a UL certification. **Senator Schmidt** said he understood from the legislation the manufacturer wanted to be able to buy and install non-UL approved equipment.

#### TESTIMONY:

**Bob Scott**, Board Member, National Electrical Association (Board), gave a brief background of his qualifications and spoke in opposition to the bill. He stated Rekluse Motor Sports called attention to the problem of it being too costly to obtain some of the pieces of equipment listed by UL or NRTL. The Board directed members of the Division of Building Safety (DBS) to collaborate with Rekluse Motors for a solution. An alternative would be to certify equipment by NRTL and allow a licensed electrical engineer, not employed by the company wanting the certification, to certify that a piece of equipment was safe to use. The legislation passed last year, and he did not think enough time had elapsed to see whether the problem was solved. Rekluse Motor Sports told the Board they were not happy and they were going to bring a similar bill to the Legislature. He said he felt the Board did not support this legislation. When requirements are removed for a piece of equipment to meet a certain standard, safety could be compromised. He said he did not know how to calculate the fiscal impact due to accidents that kill workers. OSHA requires industrial equipment to be certified.

**Vice Chairman Patrick** said he was curious about what kinds of electrical problems could happen when a circuit breaker or other safety equipment is in place and functioning. **Mr. Scott** said the equipment has to be certified by the manufacturer. Without requirements, there is nothing preventing the manufacturer from using inferior products or cutting corners. **Vice Chairman Patrick** said a circuit breaker could trip if a small wire was used in the equipment, which would make it too hot. **Mr. Scott** said the resistance that comes from a bad connection or a smaller wire does not trip a breaker as there must be a special breaker in order for it to trip.

**Senator Martin** asked for clarification on what is happening now in the industry. **Senator Martin** and **Mr. Scott** talked about a manufacturer purchasing a piece of equipment that is not UL approved and attaching the equipment to an existing piece of machinery. **Mr. Scott** said an electrical engineer or the listing laboratory has to certify the product, which is expensive. Most people try to buy a piece of equipment from a

manufacturer that is approved. **Senator Martin** asked about the cost of certification. **Mr. Scott** said the cost was approximately \$5,000.

**Senator Lakey** wanted to know why there was inconsistency in the application of enforcement. **Mr. Scott** said he thought each city interprets the electrical code differently. **Senator Lakey** wanted to know why testing by foreign agencies was not acceptable. **Mr. Scott** said he was not familiar with foreign agency certification requirements, but he knows that many of the foreign manufacturers do manufacture to UL standards.

**Senator Ward-Engelking** stated that some of the purchased equipment does not have UL certification and has to be recertified. She was wondering if some of the equipment from China, for example, met UL standards. **Mr. Scott** said China is one of the major suppliers that does not use a certification by a nationally recognized testing laboratory. **Senator Ward-Engelking** expressed a concern since other things, such as toys, have not met U.S. standards.

**Senator Lee** said she was familiar with policies from other states and they do not have the same requirement. **Senator Lee** wanted to know if Mr. Scott was familiar with any of the safety issues or items that happened in other states. **Mr. Scott** said he had no specific instances.

#### TESTIMONY:

**Marty Durand**, representing the Idaho Building Trades Council, testified in opposition to the bill. She said this bill would allow some industrial electrical equipment to go without a certification, which is a safety issue. Certification is necessary to ensure the equipment is properly manufactured, labeled and can be operated safely. This bill presumes the equipment is safe.

**Mark Zaleski**, Business Manager of the International Brotherhood of Electrical Workers (IBEW), spoke in opposition to the bill. He said removing certification requirements for products and equipment throws safeguards out the door and opens the door to installations of inferior equipment. There is an unknown in the area of safety for both the installers and individuals who may come into contact with those products. The listing of equipment has been an industry standard and a proven method that works for customers who are installing products in their facilities. This bill gives the Board the right to make a determination of whether a product or piece of equipment presents an undue hazard to life or property.

**Senator Heider** wanted to know why Mr. Zaleski referred to some products from out of the country as being inferior, even though there was not a UL certification. **Senator Heider** stated that many pieces of equipment made overseas were excellent. **Mr. Zaleski** said he agreed there were many superior products, but he said he was alluding to the possibility of an inferior product in his prior statement.

**Jeff Fitzlaff**, representing Underwriting Laboratories, said he was here to answer any questions pertaining to UL. **Chairman Tippets** said he does not remember at his place of employment this ever being a problem with electrical equipment purchased from an industrial facility, and this appears to be a more recent problem. He wanted to know why this has become a problem. **Mr. Fitzlaff** said there was not a problem in earlier years. The European machinery is usually built with the Deutsches Industrial Norm (DIN) standard with a self-certification signed by the manufacturer. The European and Chinese electrical systems are not as robust as the U.S. systems, so the conductors are much smaller. Distribution panels are manufactured to protect the equipment, but in the U.S. the conductors are

protected at the point of manufacture of the equipment. The Conformance Européenne (CE) mark has notoriety. The UL mark is a self-certification showing that the U.S. standard is a true third party representing all manufacturers.

**Chairman Tippetts** wanted to know whether OSHA required industrial equipment to be certified and whether the action on this bill would make a difference or was it shifting the responsibility from the State to the federal government for enforcement. **Mr. Fitzlaff** said OSHA requires equipment to be labeled and listed.

**Senator Schmidt** wanted to know if Mr. Fitzlaff was aware of any inspections that have been done to satisfy the law passed last year which allowed state inspection of non-UL approved installed equipment. **Mr. Fitzlaff** said he does not know of any electrical engineers who have performed these inspections.

**Senator Lakey** asked Mr. Fitzlaff to give him the Code of Federal Regulations (CFR) citation. **Mr. Fitzlaff** said it is 29 C.F.R. 1910.303(2)(b). **Senator Lakey** wanted to know if that was the National Electric Code (NEC). **Mr. Fitzlaff** said that was not the NEC, but a federal code used by OSHA.

**Vice Chairman Patrick** and **Mr. Fitzlaff** discussed "labeled and listed" as the terms relate to the NRTL list.

**Aaron White**, representing the Idaho American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), testified in opposition to the bill. He said when a piece of equipment was deemed unsafe, the company can continue to operate the equipment until the DBS Board meets and officially rules the equipment to be unsafe. This process can take up to three months. The only way to ensure a piece of equipment is safe is to have it tested.

**Dwayne Dayley**, Rekluse Motor Sports, testified in support of the bill. He said the bill is strictly related to electrical use of industrial equipment. The intent is to exempt industrial equipment from inspection by an industrial engineer. He said he wanted to see a standard interpretation of the law. The intent was not to create a fiscal burden on the DBS nor remove inspection of equipment. Safety is a top priority. He said some equipment is being plugged in to avoid compliance with the law. Some companies are not taking out permits to install equipment. The bill allows DBS to stop someone from not following the law. The typical cost is between \$5,000 to \$8,000 for an inspection.

**Senator Lakey** wanted to know if the bill passed, what would the inspection requirements be for a new piece of industrial equipment. **Mr. Dayley** explained the process, which included the appropriate labeling by OSHA. After the equipment is wired into the machinery, the electrical inspector looks at the wiring and inspects the breakers and other items to make sure the company is in compliance.

**MOTION:**

**Senator Heider** moved to send **H 238** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

**Kelly Pearce**, DBS Administrator, said the DBS was comfortable with the compromise from the last Session. Not enough time has passed; he said it was important the DBS retains some sort of role regarding safety. He stated that enforcement varies throughout the State.

**Senator Ward-Engelking** said she was concerned about electricians being opposed to this bill, and it seemed to her that the experts in the field were concerned about the change in the law.

The motion carried by **voice vote**. Senators **Ward-Engelking, Schmidt and Martin** requested to be recorded as voting nay. Senator Lakey will carry the bill on the floor.

**GUBERNATORIAL APPOINTMENT AND HEARING:**

The appointment of Max Black of Boise, Idaho, to the State Insurance Fund Board (Board), term commencing April 3, 2014 and expiring April 3, 2018. **Mr. Black** stated he was a former Representative and served for 20 years. He said he spent his working career in the insurance industry. **Senator Martin** thanked Mr. Black for his service, help and advice.

**GUBERNATORIAL APPOINTMENT:**

**Senator Martin** moved to send the gubernatorial appointment of Max Black to the State Insurance Fund Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Cameron** seconded the motion. The motion carried by **voice vote**. Senator Burgoyne will carry the appointment on the floor.

**ADJOURNED:**

There being no further business, **Chairman Tippetts** adjourned the meeting at 2:58 p.m.

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Senator Tippetts  
Chair

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Linda Kambeitz  
Secretary