

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 09, 2016

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Martin, Senators Lakey, Guthrie, Heider, Rice, Thayn, 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: **Vice Chairman Martin** called the Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Rice** moved to approve the Minutes of January 26, 2016. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Idaho Hispanic Chamber of Commerce (IHCC).** **Brent Olmstead**, Lobbyist, introduced the IHCC members and he gave a brief summary of the history of the IHCC and how it has evolved into the organization that it is today. He talked about the growth in Hispanic-owned businesses in the U.S. ranging from health care to construction. He pointed out that from 2012 to 2015 those businesses grew by 7.5 percent. In Idaho there are 7,188 Hispanic-owned businesses with \$1,084,537,000 in sales. One-third are female-owned businesses. There has been a 26 percent increase in Hispanic-owned businesses in Idaho. He said the IHCC supports an innovative and diverse educational system that will provide opportunities for all students to attain the knowledge that is necessary to become successful and productive citizens. These educational opportunities include adequate funding for public schools, better access to public charter schools and magnet programs and support for Science, Technology, Engineering and Math (STEM) programs in Idaho.

Mr. Olmstead reported the IHCC supports community colleges, technical and trade programs and adequate higher education funding by the State. The IHCC is in favor of an equitable and efficient tax policy that allows businesses the opportunity to function successfully while still providing the services that are needed. The IHCC acknowledges that tax policy in Idaho should be reviewed on a continuous basis to assure that the needs of the public are being met; at the same time it is important that citizens are not being subjected to an unnecessarily high tax burden. The IHCC supports quality, affordable health care that includes competition in the marketplace. The IHCC is in favor of reasonable ways to increase the availability of health care coverage and to reduce costs for both employers and employees, while avoiding programs that are overly complex and promote litigation. In addition, the IHCC also supports immigration reform to improve and promote job creation, economic growth and entrepreneurship. **Mr. Olmstead** stated the IHCC will work towards monitoring and fostering actions that maintain an efficient system that provides adequate statewide opportunities and benefits for individual citizens, agriculture and business.

Mr. Olmstead introduced Ivan Castillo, President of the IHCC.

Mr. Castillo said the mission of the IHCC is to promote, develop and assist Hispanic-owned businesses. He said the purpose is to foster an appreciation of the importance of Hispanic businesses and their concerns. The IHCC is working to promote Hispanic business development through economic programs designed to strengthen and expand the income potential of all businesses in Idaho. He mentioned some of the programs that are being sponsored and supported by the IHCC, including scholarships, micro-loans and IHCC events. **Mr. Castillo** remarked micro-loans promote and foster new and developing Hispanic-owned businesses by providing them with financial and educational resources to help them grow and succeed. He acknowledged the IHCC lends money for equipment, inventory, cash flow, bills, relocation and advertising.

PASSED GAVEL: Vice Chairman Martin passed the gavel to Chairman Patrick to continue the meeting.

DISCUSSION: **Chairman Patrick** stated micro-loans were providing an opportunity for businesses to do well. He and **Mr. Castillo** had a conversation about the source of funds, requirements and the interest rate charged for loans.

Senator Lakey asked how broad an area the IHCC covers. **Mr. Castillo** said the strategy for 2016 was to open a satellite office in Twin Falls.

Vice Chairman Martin and **Mr. Castillo** talked about the future of the IHCC and the idea of the IHCC being the source of training and development for small businesses.

Senator Schmidt and **Mr. Castillo** had a conversation about the future plans the IHCC had in order to integrate with other Chambers of Commerce.

Senator Thayne commented that there were at least three members of the Committee who speak Spanish. The IHCC was welcome to come visit with Legislators. **Mr. Castillo** remarked the IHCC was proud of what they have accomplished and he looked forward to receiving feedback.

RS 24002

Issue Dockets that Prescribe Minimum Requirements for Plans and Records of Survey. **Keith Simila**, Executive Director, Idaho Professional Engineers and Land Surveyors (IPELS Board), said the objective of the bill is to enable the IPELS Board to write rules to address changing technology.

The IPELS Board is currently working with the Idaho Association of Counties (IAC) and other stakeholders to evaluate the use of electronic filing of plats and records of survey. The use of this technology is not available to county clerks and recorders, but there is a desire by some counties and the IPELS Board to make this option available. For those counties who choose to adopt electronic filing and recording, rules are needed to address the technology and processes used. Since technology is continuously changing, the use of rule changes in lieu of statute changes is desired. The IPELS Board cannot anticipate all the technological changes that may come in the future, which is why the rulemaking language is general and not specific to one issue. Future rulemaking will be negotiated, and consensus will be pursued from the IAC and IPELS Board.

Senator Schmidt wanted to know if this statute was not printed, would the IPELS Board still have authority to write rules? **Mr. Simila** replied the IPELS Board would still have the ability to write rules, but the language addresses rules for plats and records of survey. This has never been in statute. This change would make electronic filing more enforceable.

MOTION: **Senator Schmidt** moved to print **RS 24002**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 24016 **Issue of License to Engineering Faculty.** **Keith Simila** said the objective of the bill is to authorize the IPELS Board to provide an alternative pathway to licensure without a written technical examination for Ph.D. faculty who teach upper division engineering courses at Idaho universities. The amendment also clarifies the requirements of professional examinations and the conditions concerning reexamination for those failing on prior attempts. Fees for reexamination are removed.

Faculty who teach upper-division engineering courses are required by law to be licensed professional engineers. At some universities, faculty may receive specialized education relating to technical fields for which no technical examinations are available. An example is materials engineering. There is no technical examination, yet some engineering faculty obtained a Ph.D. in this specialty area. The IPELS Board and the Deans of Engineering (Deans) desire to find a way to better address this concern and propose that a contingent license be available for this purpose. The contingent license process will allow a waiver of the technical examination, in lieu of other requirements such as a written examination on laws, rules and professional responsibility. The license would be contingent on certain requirements, such as remaining employed by the university. The exact process and requirements are proposed to be negotiated by rule with prospective stakeholders. The IPELS Board and the Deans believe this alternative pathway will assist in recruiting and retaining quality engineering faculty and provide a reasonable means for Ph.D. faculty in specialized technical engineering fields to obtain licensure without the requirement for technical testing.

MOTION: **Vice Chairman Martin** moved to print **RS 24016**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 24018 **Definition of "Retired" Relating to Idaho Professional Engineers and Land Surveyors Board** (IPELS). **Keith Simila** remarked the objective of the bill is to add a definition for a retired licensee. The purpose is to ensure licensees clearly understand that retiring a license means that they can no longer practice. While it may seem self-explanatory, not all licensees clearly understand. Since the IPELS Board now allows licensees to retire their license regardless of age, the IPELS Board has seen an increase in the number of retired licensees over the years. The temptation is to practice without reinstating to active status which puts the IPELS Board in a position to address the issue as a disciplinary action. The definition in statute gives the IPELS Board clarity that will avoid unnecessary violations.

Chairman Patrick wanted to know if a licensee retired and did not renew their license, would that be a violation? **Mr. Simila** indicated that if a licensee retired, did not renew their license, and still practiced, that would be a violation. He remarked there are benefits of retiring a license as there are no late fees if a licensee wanted to renew their license. However, the licensee would have to make up their professional hours requirement when they renewed. Many retired licensees are choosing this path. **Senator Lakey** inquired about the new definition for "retired professional engineers" and wanted to know if the definition was used somewhere else. **Mr. Simila** explained the definition is used in promulgated rules of procedure, but the term has never been defined.

MOTION: **Senator Ward-Engelking** moved to print **RS 24018**. **Vice Chairman Martin** seconded the motion. The motion carried by **voice vote**.

Civil Penalty - Clarification of Unlicensed Practices - Engineers and Surveyors. **Michael Kane**, Attorney, IPELS Board, reported that engineers and land surveyors licensed in other states and unlicensed individuals sometimes attempt to practice in Idaho without first obtaining a license. The IPELS Board's first action upon learning of these violations is to issue a "cease and desist" letter informing the individuals they are in violation and must obtain a license to legally practice in Idaho. Most of the time, the cease and desist action is effective and the individuals will pursue obtaining a license or will cease to practice. There are occasions where the cease and desist letters are disregarded. In these cases, the only option the IPELS Board has is to pursue a criminal complaint through the Attorney General to enforce a misdemeanor charge, injunction and fine. The amendment will give the IPELS Board a better option than pursuing a criminal complaint by allowing a civil penalty. This is a less severe and less costly means of enforcing unlicensed practice and is expected to attain the same result. The amendment also clarifies what constitutes a violation of unlicensed practice by using the same language already described in Idaho Code § 54-1202. This change will remove ambiguity and ensure the enforceability of the law. The amendment clarifies that unlicensed practice of engineering or land surveying is a violation of the law. It adds a civil penalty of up to \$1,500 as another enforcement provision for a judge to consider, which is a lesser penalty than a criminal misdemeanor. There is no fiscal impact to the General Fund or the dedicated fund.

Vice Chairman Martin and **Mr. Kane** had a conversation about the term "professional" and the steps an engineer or a land surveyor has to go through to become a licensed professional. **Mr. Kane** remarked all engineers and land surveyors must be licensed in the State of Idaho.

Senator Schmidt and **Mr. Kane** discussed when a business hires someone who is retired and not licensed and why that individual would not be in violation of this section of the law. **Mr. Kane** stated sole-proprietorship companies are allowed to hire workers who do not necessarily have to become licensed. These companies fall under the industrial exemption. Theoretically, a retired person could be hired to do work for a company, would not have to worry about being licensed and would not be in violation of the law.

MOTION:

Vice Chairman Martin moved to print **RS 24017C1**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

PRESENTATION:

Idaho Industry Employment Projections. **Ken Edmunds**, Director, Department of Labor (DOL), asked that he do his presentation first and then hear **RS 24231** since the presentation leads into discussion of the legislation. He reviewed the State's economy from the perspective of the DOL. He commented that Idaho was the national leader in employment base and job growth. The cost of living in Idaho is 8 percent lower than the national average. He remarked the unemployment rate in Idaho is 4 percent. He went over the projected job growth over the next ten years explaining there is a gap of approximately 63,000 positions that go unfilled.

Director Edmunds gave an overview of the DOL, explaining the DOL is a federally funded agency. State unemployment cuts into reserves. General appropriations are less than .05 percent within the State. He remarked the Unemployment Insurance Fund was much more focused on workforce development. The DOL has received some grants, which helps. Unemployment insurance peaked at 3.3 percent and the rate is currently at 1.488 percent, which has saved more than \$160 million in taxes for employers. In the past, the DOL had to borrow money from the federal government as a backup fund. This year

the DOL will have \$700 million in reserves.

Director Edmunds said the proposed legislative changes to the State's unemployment insurance laws for 2016 are:

- Index Benefit Duration to the Unemployment Rate
- Correcting the Maximum Weekly Benefit Amount (fixing the ratio of benefits paid to income earned at 55 percent)
- Two housekeeping bills (H 396 and H 397)

Future considerations facing the workforce are the skills gap with a workforce shortage.

Director Edmunds talked about Idaho's Workforce Development Training Fund and the three-pronged approach being used by the DOL. The first one, employer grants, includes training reimbursement for new and expanding businesses. There is emphasis on transferable skills and structured training programs with an educational partner. Second, the industry sector grant involves education institutions partnering with three or more industry partners. Industry partners are involved in curriculum development and provide a cash match. Third, rural micro-grants involve a community-based partnership with business, education and others. There is a \$25,000 maximum award.

Director Edmunds showed a video that highlighted the successes of various businesses, schools and colleges who were the recipients of the Workforce Development Training Fund (WDTF) grants.

Director Edmunds said the proposed legislative changes to Idaho's WDTF were to expand the fund's use to include innovative training solutions; add retraining as an allowable activity; coordinate training fund activities with employers and Idaho Professional-Technical Education; eliminate unencumbered balance transfer requirements; transfer funds in excess of \$6 million to the employment security fund; and extend the program sunset clause to 2022. He asked that the cap be removed.

RS 24231

Workforce Development Training Fund . Ken Edmunds remarked this legislation amends the WDTF provision of the Employment Security Law by eliminating the transfer of training funds to the employment security reserve fund, broadening the purposes for which WDTF may be used and extending the sunset clause for the training tax on covered employers to the year 2022. There is no fiscal impact to the General Fund or to local government funds. If enacted, this legislation would continue to generate \$5.5 million in revenue per year with no impact on the Employment Security Fund's solvency. **Director Edmunds** stated the DOL wanted to be more creative and innovative with the funds to achieve better results.

Senator Schmidt and **Director Edmunds** had a conversation about the current \$6 million fund balance, removing the cap and examining the machinations of how all of that works with the reserve fund. They also discussed the timing of cash flow to address programs. **Senator Lakey** and **Director Edmunds** talked about the use of the reserve funds for WDTF and the security reserve fund. **Senator Lakey** wanted to know why the DOL wanted the cap removed. **Director Edmunds** explained the DOL needs to accumulate funds in order to give larger industry sector grants. The DOL needs to keep a certain balance available at any time for employer reimbursement. The DOL would like to have more flexibility in accumulating the money. Currently, the DOL is being forced into the situation where the largest maximum industry sector grant is \$250,000.

The DOL has several requests for \$500,000 to \$700,000 but is struggling to have enough cash available to address some of the vital programs in key industries.

Vice Chairman Martin asked for clarification between the WDTF, which is at \$6 million, and the employment security reserve fund. He wanted to know if there was a balance in the employment security reserve fund. **Director Edmunds** referred to his previous slides and said when the DOL has unemployment tax collection, the money (80 percent) is deposited into the federal fund, which has approximately \$500 million; the backup contingency fund (17 percent), which is State money (any money over the \$6 million cap is deposited into this fund for unemployment benefits); and 3 percent is deposited into the WDTF. Any excess in the state fund flows into the federal fund. **Director Edmunds** pointed out the problem is that once the money is deposited into the federal fund, the money cannot be transferred back to the WDTF. The DOL is trying to keep a reserve of one year in unobligated funds and has been trying to balance the cash flow for unobligated needs. The DOL is concerned because an artificial situation is created for cash management. The goal is to create more flexibility so as to not artificially manage the money.

Vice Chairman Martin wanted to know how much the WDTF is expected to grow. **Director Edmunds** said there was approximately \$500,000 to \$600,000 a month coming into the fund.

Senator Guthrie remarked it appeared to be a timing issue. Could the same thing be accomplished by having an average balance over several months and were there any other options? **Director Edmunds** stated the DOL looked at the three options (to remove the cap, to increase the cap to \$9 million or to use the average approach) and removing the cap was the most straightforward.

MOTION:

Senator Thayn moved to print **RS 24231**. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

Senator Schmidt said he had a question about the presentation and wanted to know why wages were not going up. **Director Edmunds** said wage growth is always a factor. Growth has been seen at the lower end, and Idaho has moved up ten places nationally, which is expected to continue. The DOL predicts wages will come up on their own. There is a lot of pressure to make entry level high tech jobs in Idaho comparable to surrounding states and national averages.

ADJOURNED:

There being no further business, **Chairman Patrick** adjourned the meeting at 2:54 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary