

MINUTES
HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Wednesday, February 15, 2017

TIME: 1:30 P.M.

PLACE: Room EW05

MEMBERS: Chairman Hartgen, Vice Chairman Anderson, Representatives Harris, Holtzclaw, Horman, Packer, Redman, Kingsley, Moon, Syme, Scott, King, Chew (Reifers)

**ABSENT/
EXCUSED:** None

GUESTS: Maria Lorcher, Idaho PTA; Don Drum and Mike Hampton, PERSI; Cheryl George, Attorney General's Office; Nick Veldhouse and Laura Lantz, Idaho Association of Highway Districts; Kent Kunz, Idaho State University; Russell Westerberg, Cigar Association of America; Valerie Bollinger and Sarah Hilderbrand, DOP; Jason Kreizenbeck, Lobby Idaho, LLC/AT&T; Senator Lori Den Hartog; Kate Haas, Kestrel West; Skip Smyser, Altria Client Services

Chairman Hartgen called the meeting to order at 1:32 pm.

MOTION: **Rep. King** made a motion to approve the minutes of the February 9, 2017, meeting. **Motion carried by voice vote.**

H 142: **Rep. Crane** presented **H 142**, which changes the term "expense" to "cost" to clarify when state institutions of higher education are procuring property, it is the basic cost of an item that should be compared between the state open contract and a local vendor.

MOTION: **Rep. Harris** made a motion to send **H 142** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Crane** will sponsor the bill on the floor.

H 143: **Rep. Vander Woude** presented **H 143**, which would allow state agencies to join in cooperative purchasing agreements with other agencies, instead of only purchasing items on the state contract.

MOTION: **Rep. Holtzclaw** made a motion to send **H 143** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Vander Woude** will sponsor the bill on the floor.

Chairman Hartgen presented a gift to the Committee's page, **Bridger LaBau**, and thanked him for his service.

H 166: **Vice Chairman Anderson** presented **H 166**, a proposed new statute to provide flexibility for different circumstances when a state contract is voided.

In response to Committee questions, **Vice Chairman Anderson** deferred to **Elizabeth Bowen**, a bill drafter in the Legislative Services Office. Ms. Bowen explained the proposed legislation came out of the State Procurement Laws Interim Committee's opinion that the current statute treats all instances of illegal contracts as if they're all in bad faith, instead of allowing for contingencies when vendors did act in good faith. **H 166** addresses different scenarios, including emergency situations and the repayment of vendors who acted in good faith and already delivered goods or services before the contract was voided.

In response to Committee questions, **Ms. Bowen** clarified repayment to vendors who acted in good faith is not discretionary on the part of the state and the statute will treat the contract as valid up until the point of termination.

- MOTION:** **Rep. Redman** made a motion to send **H 166** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Anderson** will sponsor the bill on the floor.
- HCR 6:** **Vice Chairman Anderson** presented **HCR 6**, which reauthorizes the State Procurement Laws Interim Committee for another year. The expense of doing so will be paid out of the preexisting Legislative Accounts for the House and Senate.
- MOTION:** **Rep. Packer** made a motion to send **HCR 6** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Anderson** will sponsor the bill on the floor.
- H 144:** **Rep. Packer** presented **H 144**, the Keep Idaho Safe Act which would create the KIDS List, a voluntary, do-not-contact registry for children. Parents and other adults register the child's contact points and marketers are then blocked from sending messages promoting age-restricted materials and services. She stated the registry would not cost any money and the two states that already have one have generated a small amount of revenue. She noted an RFP is required and addressed concern about violations by intermediaries like a phone company, by noting the bill clearly states a person does not violate the proposed code chapter by being an intermediary between transmitter and receiver. Finally she addressed security and privacy concerns and stated if a person were to inadvertently gain access to the list, the information would be encrypted in a hash and not identifiable.
- Maria Lorcher**, Vice President of Advocacy for the Idaho PTA, testified **in support of H 144**. The Idaho PTA sees this as an issue of digital safety for Idaho kids and feels now is the time to put filters in place to protect kids from adult content, as technology use continues to increase in schools.
- Jason Kreizenbeck**, Lobby Idaho, LLC, testified **in opposition to H 144** on behalf of his client, AT&T. He expressed support for the goal of the bill to protect kids from inappropriate online communications, but expressed concern the bill would actually increase risks for children by creating a single database with their verified contact information. He also stated email providers already provide customizable filters to prevent unwanted communication.
- In response to Committee questions, **Mr. Kreizenbeck** also expressed concern regarding the cost of the bill, stating the way the company will maintain records is to charge a fee for each age inappropriate email sent to minors, so all compliant companies would have a cost.
- Kate Haas**, Kestrel West, testified **in support of H 144** on behalf of her client, Unspam Technologies, one of the companies that could run the proposed program. She gave an overview of the encryption process for the contact points that parents register and noted spam filters offer insufficient protection because kids can still easily access the emails they contain. Ms. Haas also noted the legislation requires an annual security audit by an independent third party.
- In response to Committee questions on the technical aspects of the legislation, **Ms. Haas** deferred to **Eric Langheinrich**, CEO of Unspam Industries. He explained his company looks to build off the lessons of the national phone do-not-call movement and apply them online. His company ensures a double-blind process where marketers checking their contact lists only compare encrypted information to the encrypted information the company stores and the company never stores the contact point information in their system.

In response to Committee questions regarding costs, **Ms. Haas** explained the fee required in the legislation as a user fee, not to exceed two cents. It is the cost to the marketer when they scrub the contact lists against the KIDS List and is scalable based on the number of people the marketer wishes to contact. She described it in simple terms as passing a law to require companies to scrub their lists before they market illegal-to-children products in Idaho and noted these products are defined in Code as being illegal for minors to purchase, such as alcohol and tobacco. She asserted the state would not be liable because it is not involved in creating the registry, parents input their children's information directly and it is the responsibility of marketers to check against the list. The legislation does provide a 30 day grace period when first enacted to give marketers time to scrub their lists.

MOTION:

Rep. Moon made a motion to **HOLD H 144** in committee at the call of the chair.

In response to the Committee's request, **Chairman Hartgen** tabled the motion until the final testifier was heard.

Skip Smyser, Lobby Idaho, LLC, testified **in opposition** to **H 144** on behalf of his client, Altria Client Services. He argued the opt-in provision of the bill, which allows the adult who controls the contact point to consent to receiving marketing, was not sufficiently flexible to be a meaningful option for adult consumers by requiring face-to-face age verification. He expressed his preference that the KIDS Act should be crafted with input from all stakeholders and measures should be taken to ensure the tobacco industry, along with other legitimate businesses, are not punished by being asked to finance this system when they are already trying to comply with the law. He expressed concern that by not designating an agency to control this new registry and leaving the decision to the Governor, it was an unlawful delegation of legislative authority.

Skip Smyser, representing himself as a restaurant owner, testified **in opposition** to **H 144**. He expressed concern at the mention of restaurants in the legislation and stated it would be a burden for him to have to scrub his email list every 30 days, even though his primary purpose is not to market to kids.

Rep. Packer was recognized to close testimony on **H 144**. She noted similar programs have been run in two other states for more than ten years, with none of the problems raised in testimony. There has been no cost to those states and the program has been a revenue generator. She stated other stakeholders were spoken with and she worked with these organizations to protect retailers and restaurants from any ill effects of the proposed law. She noted restaurants are mentioned in the legislation specifically to exclude them and owners would not be required to scrub their email lists if their communications have nothing to do with promoting age inappropriate products. She emphasized the primary purpose of the legislation is to protect Idaho children in a voluntary fashion that won't cost the state any money. Rep. Packer asked that rather than voting on **Rep. Moon's** motion to hold **H 144** in committee at the call of the chair, it be held until time certain.

SUBSTITUTE MOTION:

Rep. Horman made a substitute motion to **HOLD H 144** for time certain, February 21, 2017. **Motion carried by voice vote.**

H 145:

Rep. Harris presented **H 145**, which defines "employer" for purposes of admittance into PERSI as a "unit of government." This will prohibit any non-government employers from being added in the future.

In response to Committee questions, **Rep. Harris** listed several of the non-government employers currently participating in PERSI and argued it is inappropriate to spend time, resources and effort supporting non-public employees in a defined benefit plan meant for public employees.

MOTION: **Rep. Redman** made a motion to send **H 145** to the floor with a **DO PASS** recommendation.

Don Drum, Director, PERSI, testified as a neutral party to provide additional information to the Committee. The PERSI fund is a governmental plan, meant for governmental employees. The IRS restricts who qualifies as a government employee. In prior decades the IRS was more relaxed in its definition of a government employee, but is currently trying to clarify this issue via proposed rules, which have not yet been adopted. The delay has been due to concern over how to handle current plan participants who would no longer qualify as government employees under the proposed rules. Mr. Drum stated **Rep. Harris** is addressing the same issue as the IRS, but **H 145** bypasses the issue of current participants.

In response to Committee questions, **Mr. Drum** noted any new participants in PERSI must have 60 months of service for their benefits to vest and he currently receives applications from 7-15 employers per year wanting to join the PERSI fund.

VOTE ON MOTION: **Motion carried by voice vote. Reps. King and Chew(Reifers)** requested to be recorded as voting **NAY. Rep. Harris** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:38 pm.

Representative Hartgen
Chair

Erica McGinnis
Secretary