

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 16, 2018

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Potts, Ward-Engelking, and Burgoyne

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 Patrick** called the Senate Commerce and Human Resources Committee (Committee) meeting to order at 1:30 p.m.

RS 25710 **Relating to Idaho Petroleum Clean Water Trust Fund. Senator Nonini** said this legislation amends the Idaho Petroleum Clean Water Trust Fund, Idaho Code § 41-4904, to revise provisions to allow a broader group of wholesale distributors of petroleum products to serve as a member of the Board of Trustees (Board). There is no change in Board members; therefore, there is no fiscal impact.

MOTION: **Senator Lakey** moved to print **RS 25710**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to introduce the presenters for the rules being heard.

DOCKET NO. 24-0101-1701 **Rules of the Board of Architectural Examiners. Tana Cory**, Bureau Chief, Bureau of Occupational Licenses (BOL), said the Board of Architectural Examiners (BAE), operates primarily on fees collected from licensees. It is recommended that boards maintain a balance equivalent to 100-150 percent of their annual budget. The BAE's balance exceeds that amount. Accordingly, the rule lowers fees and leaves more money in the hands of licensees.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The proposed change to Section 200 reduces the annual license renewal fee from \$75 to \$50, the endorsement license fee from \$150 to \$50, and sets the temporary license fee at \$50. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

MOTION: **Senator Martin** moved to approve **Docket No. 24-0101-1701**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
24-0701-1701**

Rules of the Idaho State Board of Landscape Architects. **Tana Cory**, Bureau Chief, Bureau of Occupational Licenses (BOL), said the Board of Landscape Architects (BLA) operates primarily on licensing fees. It is recommended that boards maintain a cash balance of 100-150 percent of their annual budget. The cash balance of the BLA exceeds that amount. Accordingly, the BLA wants to lower its balance and leave more money in the hands of licensees. This rule will also update the name of the landscape architect accrediting body from the American Society of Landscape Architects (ASLA) to the more precise Landscape Architectural Accreditation Board (LAAB).

Ms. Cory reported there are no changes to the pending fee rule and it is being adopted as originally proposed. Negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the BLA. The proposed change to Section 400 reduces the license application fee from \$100 to \$75 and the original license and annual renewal fees from \$150 to \$125.

DISCUSSION:

Chairman Patrick inquired if there was an excess in the account because there are more landscapers. **Ms. Cory** said there may be a variety of reasons that more people are becoming licensed. Most of all, the BLA has not had many complaints, which causes expenses to go down. Costs are spread out over all of the boards.

MOTION:

Senator Souza moved to approve **Docket No. 24-0701-1701**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
09-0130-1701**

Unemployment Insurance Benefits Administrative Rules. **Michael Johnson**, Unemployment Insurance Administrator, Idaho Department of Labor (IDOL), said the adoption of the pending rule is necessary to clarify the misconception that leads unemployment insurance claimants to believe that in order to file for unemployment insurance benefits, they must call a Boise telephone number. Further, the pending rule provides the DOL greater flexibility in the event the State needs to relocate its claims processing center for budgetary reasons or due to a natural disaster, such as fire or flooding.

Mr. Johnson said there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact. Negotiated rulemaking was not conducted because the rule is temporary.

MOTION:

Senator Thayn moved to approve **Docket No. 09-0130-1701**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
10-0101-1701**

Rules of Procedure. **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Land Surveyors (IPELS Board), said the rule change clarifies the intent of the IPELS Board. The amendments will: 1) add a new provision clarifying the IPELS Board's website is used for informational and legal purposes; 2) correct grammar and code citations; and 3) remove the Washington Accord from the list of unconditionally approved international engineering programs.

Mr. Simila reported there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact to the General Fund or the agency dedicated fund because the amendment displays the intent of the IPELS Board's website; the website is already developed and used for the purposes stated. Further, the corrected words and citations are housekeeping in nature. International applicants for professional engineering licensure may incur costs for an independent review of their education credential if the IPELS Board is unable to determine whether the engineering coursework meets the education requirements stated in the existing rule. Negotiated rulemaking was not conducted.

DISCUSSION: **Senator Burgoyne** remarked that it seemed coincidental that Canada and the United Kingdom (UK) have the highest standards and asked if the language in the rule was based on these organizations. **Mr. Simila** said the rationale has to do with the Washington Accord. The IPELS Board has no familiarity with the requirements of other countries and the rule change has nothing to do with language or culture.

Senator Lakey asked if the Engineering Accreditation Commission (EAC) or the Accrediting Board for Engineering and Technology (ABET) is different than the Canadian or UK accrediting boards. **Mr. Simila** explained those boards were similar. **Senator Lakey** asked for more information on survey licensure and asked if the wording should be changed for clarification. **Mr. Simila** agreed the title should be changed. **Mr. Simila** clarified the exam is Idaho-specific, but every state has a different test for land surveyors.

Senator Potts referred to pages 95 and 99 and asked why changes were made. **Mr. Simila** stated the experience requirement is four years. The IPELS Board would like to remove the four-year requirement as a condition to take the exam. **Senator Potts** clarified the goal is to expedite the process. **Mr. Simila** said that was correct and the IPELS Board wanted to reduce barriers to taking the exam.

MOTION: **Senator Souza** moved to approve **Docket No. 10-0101-1701**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 10-0102-1701 **Rules of Professional Responsibility.** **Keith Simila**, Executive Director, Board of Professional Engineers and Land Surveyors (IPELS Board), said the rule amendments will clarify the requirement to follow the Qualifications Based Selection of Idaho Code § 54-1208. The intent is to clarify this statute as it applies to both consultants and subconsultants.

There are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact to the General Fund or the agency dedicated fund because the amendment is a clarification of a process already required by statute and rule. Negotiated rulemaking was conducted.

DISCUSSION: **Senator Lakey** remarked this rule deals with a specialized subsection addressing procurement and request for qualifications. He asked if someone did not fit the specifications, but needed an engineer as part of their team to bid on a public building, would this rule move the contractor into that section as a subcontractor or consultant. **Mr. Simila** replied this rule only applies to land surveyors and engineers. **Senator Lakey** said he would have to look at the code regarding subconsultants. **Mr. Simila** said it was not the intent of the IPELS Board to force this on a contractor, as they do not have jurisdiction. **Senator Lakey** said the language and the intent do not match. He said he would like to defer this rule and visit with Mr. Simila.

Senator Burgoyne asked if the rule references the scope that only applies to land surveyors or architects. **Mr. Simila** said the IPELS Board has no jurisdiction over other areas. **Senator Burgoyne** asked what Idaho Code § 67-2320 related to and if there was an application beyond engineers and landscapers. **Mr. Simila** stated that the statute imposes a rule on public entities as to how they procure design services from landscapers or any design professional. **Mr. Simila** said the law only applies to a public entity and how they conduct the procurement. This rule states proposals must be submitted in accordance with the law. **Senator Burgoyne** stated that a licensee or certificate holder, in response to solicitations, shall not submit information that constitutes a bid for services requested either as a consultant or subconsultant. **Mr. Simila** said the law defines the entitlement for a license or a certificate holder. **Senator Burgoyne** remarked the scope is limited to engineers and land surveyors.

Senator Lakey said his concern was adding "subconsultant", which may be a violation of the law. He suggested this rule be held at the Call of the Chair until he could meet with Mr. Simila. Chairman Patrick agreed.

**DOCKET NO.
10-0104-1701**

Rules of Continuing Professional Development. **Keith Simila**, Executive Director, Idaho Board of Professional Engineers and Land Surveyors (IPELS Board), said the rule change clarifies the intent of the IPELS Board. The amendments repeal a subsection of the rule that exempts engineers and land surveyors residing in other countries from the requirements of completing continuing professional development. With the advent of online professional development offerings, this exemption is no longer needed.

Mr. Simila stated there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact to the General Fund or the agency dedicated fund because the amendment does not increase or decrease the workload of the agency. The rule change will require more effort for licensees residing in other countries to obtain the required continuing professional development offerings of 30 professional development hours every two years.

DISCUSSION:

Senator Burgoyne asked if Canadian and UK licensees have a continuing education requirement in order to maintain their licenses. **Mr. Simila** said the requirements in Canada and the UK were similar, but the IPELS Board cannot require those licensees to furnish a completion certificate. **Senator Burgoyne** stated that if licensees in Canada and the UK were required to take courses in their countries, they would also be required to take courses here to continue to practice in the State of Idaho. **Mr. Simila** stated there is a rule that outlines the types of courses that satisfy the requirement. Codes and standards may be different in other countries. Documentation would be needed to verify continuing education. Some may be rejected.

MOTION:

Senator Souza moved to approve **Docket No. 10-0104-1701**. **Senator Potts** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0102-1701**

Public Employee Retirement System of Idaho (PERSI) Rules for Eligibility. **Don Drum**, Executive Director, PERSI, said Idaho Code § 59-1302(15), was amended in the 2017 Legislative Session. The definition of "employer" as applied to all new employers must be in compliance with the Internal Revenue Service (IRS) regulations governing governmental retirement plans.

There are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact.

DISCUSSION:

Senator Martin asked if there were any groups participating in PERSI that were excluded. **Mr. Drum** said the PERSI Board was careful not to exclude any entities already in PERSI and that were allowed by the IRS. **Vice Chairman Guthrie** asked how many entities would not be allowed to participate. **Mr. Drum** remarked there are some who do not meet the requirements. **Vice Chairman Guthrie** asked if there was anything that would cause a problem with the IRS. **Mr. Drum** said that based on research, the PERSI Board was in compliance with IRS.

MOTION:

Senator Martin moved to approve **Docket No. 59-0102-1701**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
59-0103-1702**

Public Employee Retirement System of Idaho (PERSI) Contribution Rules. **Don Drum**, Executive Director, PERSI, said the PERSI fund has made more money through investments. The rate increase has been postponed as this was a temporary rule last year. If this rule would go into effect this year, a 1 percent rate increase would be implemented. The PERSI Board is asking that this rule be rescinded.

MOTION: **Senator Burgoyne** moved to rescind **Docket No. 59-0103-1702**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

Senator Burgoyne asked for clarification from Mr. Drum. **Mr. Drum** said that if this rule was approved, the rate increase would be 1 percent starting in 2018.

DOCKET NO. 59-0103-1801 **Public Employee Retirement System of Idaho (PERSI)**. **Don Drum**, Executive Director, PERSI, said the reason for adopting this temporary rule is to delay the scheduled contribution rate increases to July 1, 2019. He said actuarial valuation indicates it is appropriate to delay the scheduled increase.

MOTION: **Senator Ward-Engelking** moved to approve **Docket 59-0103-1801**. **Senator Potts** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 01-0101-1701 **Idaho Accountancy Rules**. **Kent Absec**, Executive Director, Idaho State Board of Accountancy (ISBA Board), said the purpose of this rule is to amend Subsection 004.02 to appropriately date the Statement on Standards for Continuing Professional Education (CPE) that are incorporated by reference. The year notated will be changed from 2012 to 2016.

Mr. Absec said continuing professional education is required for Certified Public Accountants (CPA's) to maintain their professional competence and provide quality professional services. CPA's are responsible for complying with all applicable CPE requirements, rules, and regulations of state boards of accountancy, as well as those of membership associations and other professional organizations. The Preamble of the New Statement on Standards states the standards are broadly stated in recognition of the diversity of practice and experience among CPA's. They establish a framework for development, presentation, measurement, and reporting of CPE programs to help ensure that CPA's receive the quality learning experience necessary to satisfy their obligations to serve the public interest.

Mr. Absec explained the newly revised standards will provide two new methods of delivery in blended learning and nano-learning. Blended learning combines different types of instructional methods in a learning objective, such as combining self-study with a group program. Nano-learning is learning done in 10-minute increments with the licensee awarded learning credits based on a 50-minute hour model. Further revisions were made to allow CPE increments to be earned in one-fifth, one-half, or whole credit for all instructional delivery methods - with the exception of nano-learning. These revisions provide flexibility and consistency and do not cause CPE sponsors to rework program materials or require existing programs to be remeasured for CPE credit. Licensees will also have greater flexibility in the types of learning or delivery methods that better serve their learning skills and needs.

Mr. Absec stated a final major revision also clarifies the documentation of the element of engagement in a group live program that is acceptable for a licensee to earn credit. With these standards having endured the vetting process of stakeholders covering all facets of the CPE community, including but not limited to CPE program sponsors, state boards of accountancy members, state society members, and educators, and ultimately being approved by the American Institute of Certified Public Accountants (AICPA), and the National Association of State Boards of Accountancy (NASBA) Board of Directors, CPE program developers, and program sponsors are aware of the standards they will be held to in the area of CPE. Licensees and the general public will benefit from knowing that guidelines have been established around a CPA's CPE, which help promote a quality and effective learning experience. This rule has been published through the Office of Administrative Rules. The Legislative Services Office has reviewed the proposed rule and made no objections to the change. The ISBA has received no negative feedback from stakeholders or the general public and has the support of the Idaho

Society of CPA's.

There is no fiscal impact. Negotiated rulemaking was not conducted because the changes are simple in nature and the Statement on Standards are a joint effort from the NASBA and the AICPA.

Mr. Absec reported the materials being cited are being incorporated by reference into this rule. He said the Statement on Standards for CPE Programs is published jointly by the AICPA and the NASBA to provide a framework for the development, presentation, measurement, and reporting of CPE programs for the accounting profession. The standards provide specific information to both program sponsors to help ensure they are providing a rewarding educational experience and to licensees to aid them in choosing a personal and professional educational development plan suited to their development. A solid and consistent set of CPE standards will allow licensees who are licensed in multiple states to be better equipped to adhere to multiple jurisdiction requirements and give the citizens of Idaho the assurance that licensed professionals must adhere to standards as it relates to a licensee's professional development through continuous education.

MOTION: **Chairman Patrick** moved to approve **Docket No. 01-0101-1701**. **Senator Thayn** seconded the motion.

DISCUSSION: **Senator Burgoyne** stated that if a rule was incorporated by reference, information should be submitted in writing. **Mr. Absec** remarked the rule allows a licensee to have opportunities they did not have in the past. There is a provision in the rule that allows for a 10-minute nano-learning class. The nano-learning class provides an opportunity for a quick delivery on things such as preparing a tax return. Blended learning is a change in the delivery method for program sponsors who can hold a conference, assign homework, and give credit for work done outside of the classroom.

Senator Souza said all are sensitive to potential problems if a summary is not reviewed. She asked that presenters give the Committee Secretary "incorporation by reference" information.

VOTE: The motion carried by **voice vote**.

DOCKET NO. 01-0101-1702 **Idaho Accountancy Rules. Kent Absec**, Executive Director, Idaho State Board of Accountancy (ISBA Board), indicated this rule was being amended (Subsection 020.02b and 020.03) to bring it into conformity with a recent statute change of Idaho Code § 54-219(f). The amended rule will clarify that the ISBA Board is now permitted to consider a licensee's conviction of or guilty plea to any crime involving moral turpitude - an element of which is dishonesty or fraud, even where the licensee or proposed licensee has obtained a withheld judgment or other order or decree of expungement. The amended rule also clarifies the factors of rehabilitation the ISBA Board may consider in evaluating a current licensee or candidate for licensure.

Mr. Absec said here is no fiscal impact. Negotiated rulemaking was not conducted because the change is being made to bring the rule into compliance with a statute change made during the 2017 Legislative Session.

DISCUSSION: **Senator Burgoyne** said he had his intern review the rules. On page 10 there was a typographical error in "c." The sentence should say "The entry or" and not "The entry of."

MOTION: **Senator Burgoyne** moved to approve **Docket No. 01-0101-1702**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
01-0101-1703**

Idaho Accountancy Rules. Kent Absec, Executive Director, Idaho State Board of Accountancy (ISBA Board), indicated this rule was being amended, Paragraph 506.01.b to provide clarity to a licensee as to information they will need on documentation to support credit hours they are reporting for their Continuous Professional Education (CPE). This amendment to the rule will also reflect the language and requirements of standards set by the National Association of State Boards (NASBA) and the American Institute of Certified Public Accountants (AICPA); these standards are used by most state boards in the regulation of CPE.

There are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact.

DISCUSSION:

Senator Lakey said he had a question on the last item added Subparagraph 506.01.b.viii, which seemed to add ambiguity rather than clarity. He asked for clarification. **Mr. Absec** said the ISBA Board does not accept continuous education from NASBA-approved providers or that of societies, such as the Idaho Society of CPA's. The ISBA Board allows firms and other organizations, such as the State Controller's Office, ISBA leeway to ask a licensee if they can provide other documentation that supports participation within the timeframe; if able to do so, the ISBA Board would grant credit for the courses. The change is primarily for those organizations that are not within the NASBA registry or Idaho Society of CPA's.

MOTION:

Chairman Patrick moved to approve **Docket No. 01-0101-1703**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
01-0101-1704**

Idaho Accountancy Rules. Kent Absec, Executive Director, Idaho State Board of Accountancy (ISBA Board), indicated this rule was being amended Subsection 602.01), Peer Review Program Participation, to bring it in conformity with a recent statute change of Idaho Code § 54-206(3), the definition of "attest." The amended rule will provide consistency between the Accountancy Act and relevant rules. The rule will now clearly define for a licensee which services are considered peer reviewable, and therefore, require a firm who performs these services to participate in a peer review program.

There are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact.

MOTION:

Senator Potts moved to approve **Docket No. 01-0101-1704**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

ADJOURNMENT:

There being no further business, Chairman Patrick adjourned the meeting at 2:53 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary