

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 25, 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 meeting of the Commerce and Human Resource Committee (Committee) to order at 1:30 p.m.

RS 25686 **Background Checks - State Tax Commission.** **Tom Shaner**, Idaho State Tax Commission (Commission), stated this bill relates to how the Commission conducts background checks for its employees. Currently, the Commission uses the Idaho State Police (ISP) system, which also checks criminal records of eight western states. This bill will allow for nationwide background checks for current employees, contractors, and all new hires, to determine their suitability for access to federal income tax information. **Mr. Shaner** stated this is important because the Idaho income tax code was based on using the Internal Revenue (IRS) Code and it is necessary for the State to comply with the IRS guidelines, in order to have access to federal tax data. The current requirements became effective September 30, 2016. The IRS, according to Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies, requires agencies that receive federal income tax information follow procedures that include a nationwide background check.

Mr. Shaner reported the first-year cost was approximately \$30,720, consisting of \$10,000 worth of equipment and a processing fee of \$37 each for 560 employees. In subsequent years, the Commission will have to continue to check the backgrounds of newly-hired people. The Commission turnover rate, including retirement, has been approximately 20 percent or 112 employees per year for an estimated annual cost of \$4,144. The Commission would absorb any costs associated with this bill within the current appropriation.

MOTION: **Senator Martin** moved to send **RS 25686** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1209 **Relating to the Idaho Petroleum Clean Water Trust Fund.** **Senator Nonini** stated this legislation proposes to amend 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 members of the Board of Trustees. There is no change in board members, so there is no fiscal impact.

TESTIMONY: **Suzanne Budge**, representing the Idaho Petroleum Marketers and Convenience Store Association, provided a brief history of the environment cleanup by the petroleum industry. She said most states took steps in statutes to provide for environmental cleanup. The cleanup program in Idaho was separate from the federal program. **Ms. Budge** mentioned there was a fund created in 1990 and a seven-member board created in 2003. The fund was managed by the State Insurance Fund and licensed through the Department of Insurance (DOI). **Ms. Budge** said that 93 percent of underground tanks were insured by the fund and the fund has paid almost \$41 million for cleanups. She remarked there was a broad representation of marketers on the board.

John Jackson, founder and Chief Executive Officer of Jackson Energy, testified that the board should be balanced with small, medium, and large distributors.

Senator Nonini concluded the presentation and expressed he was in agreement with Mr. Jackson.

MOTION: **Senator Souza** moved that **S 1209** be sent to the floor of the Senate with a **do pass** recommendation. **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 review.

DOCKET NO. 07-0402-1701 **Safety Rules for Elevators, Escalators, and Moving Walks. Gary Barnes**, Industrial Safety Program Manager, Idaho Division of Building Safety (DBS), defined backup roller, counterweight displacement detection device, elastomeric buffer, seismic detection device, and sound engineering practice. He outlined all of the rule changes and additions. He noted that changes were incorporated by reference.

DISCUSSION: **Senator Lakey** stated he thought it appropriate that a summary of changes be provided. **Senator Lakey** stated that there needed to be a summary or suggestions as to which items should be summarized, so the Committee would have prior opportunity to review the changes.

MOTION: **Senator Lakey** moved to hold at the Call of the Chair **Docket No. 07-0402-1701**. **Senator Martin** seconded the motion. The motion carried by **voice vote**. **Senator Potts** asked to be recorded as voting **nay**.

DOCKET NO. 12-0110-1701 **Rules Pursuant to the Idaho Residential Mortgage Practices Act. Anthony Polidori**, Supervising Examiner/Investigator, Consumer Finance Bureau, Idaho Department of Finance (DOF), stated that the effect of this rule would be to promote consistent, uniform, and familiar industry standards in the marketplace by updating references to federal laws and regulations (Truth-in-Lending Act and Regulation Z - Real Estate Settlement Procedures Act and Regulation X) as amended through January 1, 2018. He stated this would be accomplished by replacing reference to the year 2017 with reference to the current year.

Mr. Polidori remarked that updating references to federal laws and regulations was an effort by the DOF to avoid exposing Idaho's mortgage licensees to inconsistencies in federal and state requirements. Furthermore, this effort would provide consumers and industry stakeholders with certainty as to the rules that apply to mortgage practices in Idaho. The DOF is not aware of any opposition. This rule was incorporated by reference. **Mr. Polidori** stated that he had a summary of the changes (see Attachment 1).

MOTION: **Chairman Patrick** moved to approve **Docket No. 12-0110-1701**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0204-1701**

Rules Governing Plumbing Safety Inspections. **John Nielsen**, Plumbing, Heating, Ventilation, and Air Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (DBS) reported the Cross Connection Manual published by the American Water Works Association (AWWA) had previously been used as the standard for the installation of cross connection control and backflow prevention devices. However, the Idaho State Plumbing Code (ISPC) already contained provisions related to backflow installations. The plumbing industry would prefer to reference only one source. This rulemaking would create clarity by eliminating the need for plumbers and inspectors to reference the Cross Connection Manual. The industry and the State would save money inasmuch as plumbers and inspectors would no longer refer to and purchase two code books. Negotiated rulemaking was conducted.

MOTION:

Senator Potts moved to approve **Docket No. 07-0204-1701**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0206-1701**

Rules Concerning Idaho State Plumbing Code. **John Nielsen**, Plumbing, Heating, Ventilation, and Air Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (DBS), stated the amendment to Section 603.5.7 of the 2017 Idaho State Plumbing Code (ISPC) would eliminate reoccurring freezing issues because the code required installing hose bibb-type vacuum breakers on freeze-resistant sanitary yard hydrants. **Mr. Nielsen** noted that this amendment would assist homeowners and contractors in saving money by not requiring a tracer wire for non-metallic pipe if the electrical wiring for the well was contained in the same trench from the well to the structure. Negotiated rulemaking was conducted.

Mr. Nielsen remarked this rulemaking was incorporated by reference. **Mr. Nielsen** referred to a handout that showed the 2017 ISPC, Section 603.5.7, Outlets with Hose Attachments (see Attachment 2).

MOTION:

Senator Burgoyne moved to approve **Docket No. 07-0206-1701**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0701-1701**

Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems. **John Nielsen**, Plumbing, Heating, Ventilation, and Air Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (DBS), said the current edition of the International Residential Code (IRC) requires mechanical ventilation and details how to design the systems to achieve the required flowrate of air, as expressed in cubic feet per minute (CFM). This is based on the number of bedrooms and total square footage of the dwelling. **Mr. Nielsen** explained that the existing administrative rule provision did not improve or help administer this requirement beyond that which was already contained in the code itself. Accordingly, the code amendment in the rules was not needed. This rulemaking proposes to delete an amendment to a mechanical provision (Section M1502.4.2) of the IRC related to system design that was no longer necessary. Pursuant to Idaho Code § 67-5220(2), negotiated rulemaking was not conducted, because the rule is simple in nature. The proposed rulemaking was discussed at several HVAC board meetings over the course of the last year, without opposition from mechanical contractors or the public.

MOTION:

Senator Thayne moved to approve **Docket No. 07-0701-1701**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
07-0701-1702**

Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems. **John Nielsen**, Plumbing, Heating, Ventilation and Air Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (DBS), said Idaho Code § 54-5021 required that HVAC inspectors be appropriately certified for the type of HVAC work that they are inspecting. **Mr. Nielsen** reported this rulemaking identified two entities that certify mechanical inspectors. The rule would allow the HVAC Board flexibility to approve any other professional certifying body. Negotiated rulemaking was not conducted because the rule is simple in nature. The proposed rulemaking was discussed at numerous HVAC Board meetings over the course of several years; there was no opposition from mechanical inspectors or the public.

DISCUSSION:

Senator Lakey asked Mr. Nielsen if this was a new section of code; he inquired as to whether inspectors were previously certified. **Mr. Nielsen** stated every mechanical inspector had been certified through the International Code Council (ICC) or through the International Association of Plumbing and Mechanical Officials.

MOTION:

Senator Potts moved to approve **Docket No. 07-0701-1702**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
17-0204-1701**

Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits. **Nick Landry**, Financial Officer, Idaho Industrial Commission (IIC), said the Peace and Detention Officer Disability Fund (Fund) was established during the 2007 Legislative Session with S 1123. The Legislature's intent was to ensure that peace and detention officers would continue to receive their full rate of base salary when injured in the line of duty. Functionally, the Fund reimburses the employer for the difference between the indemnity (wage) benefits provided by the Idaho Workers' Compensation law and the full rate of base salary paid by the employer.

Mr. Landry explained that after the statute was effective, the IIC promulgated administrative rules which detailed eligibility requirements, as well as the application and payment processes. In subsequent statutory amendments, the eligibility requirements in administrative rule were amended to reflect the changes in statute.

Mr. Landry stated that there was uncertainty regarding the stability of revenue and claim liabilities when the Legislature created the Fund in 2007, . By 2012, the cash balance had reached \$562,000. During the 2012 Legislative Session, the passage of H 570 expanded the eligibility criteria in Idaho Code § 72-1104 with a sunset date of July 1, 2015. By 2015, the cash balance of the Fund was \$867,000. In the 2015 Legislative Session, H 55 effectively removed the sunset date for the expanded eligibility criteria.

Mr. Landry noted the proposed administrative rule change was a housekeeping measure that removed the sunset date in the administrative rule to reflect the repealed sunset date provided by H 55. The IIC had administered the Fund in accordance with statute, so there was no fiscal impact associated with the proposed administrative rule change.

MOTION:

Senator Lakey moved to approve **Docket No. 17-0204-1701**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
17-0207-1701**

Procedures to Obtain Compensation. **Patti Vaughn**, Benefits Administration Manager, Idaho Industrial Commission (IIC), said the IIC adopted rules in 2015 that would mandate the International Association of Industrial Accident Boards and Commissions (IAIABC) Electronic Data Interchange (EDI) Claims Release 3.0 standard for the electronic reporting of workers' compensation claims and subsequent reports effective July 1, 2017. On April 3, 2017, the IIC adopted a Temporary Rule extending the implementation date to November 4, 2017, after some trading partners requested additional time to develop and test their systems to the new standard. This rule change retroactively inserted the actual implementation date of November 4, 2017 into the permanent rule.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 17-0207-1701**. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
17-0208-1701**

Miscellaneous Provisions. **Patti Vaughn**, Benefits Administration Manager, Idaho Industrial Commission (IIC), said this change clarified the triggering events when an injured worker was entitled to a written notice of a change of claim status. These notices allow the injured worker to know whether their claim had been accepted or denied, and to understand why payments have either been started, stopped, or reduced.

MOTION:

Senator Burgoyne moved to approve **Docket No. 17-0208-1701**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

DISCUSSION:

Vice Chairman Guthrie reminded presenters they would need written detail relating to "incorporated by reference" submitted to the Committee secretary prior to the meeting. **Senator Burgoyne** suggested the summaries be submitted when the books containing the dockets were distributed. **Senator Lakey** remarked that at one of the previous hearings he looked at the information submitted online for the Legislative Service Office and did not find it useful for this purpose. He asked for a narrative and a practical summary.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

Chairman Patrick announced the meeting on Thursday, February 1, 2018 will begin at 2:00 p.m. instead of 1:30 p.m. due to training for all Committee Chairmen and Vice Chairmen.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:20 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary