

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 08, 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 Resources Committee (Committee) to order at 1:30 p.m. **Chairman Patrick** announced volunteers were needed for the newly-formed Regulatory Reform Joint Subcommittee (RRJS). The RRJS is tasked with working with licensing boards to examine current rules and regulations within their respective fields.

MINUTES APPROVAL: **Senator Potts** moved to approve the Minutes of February 1, 2018. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 25963 **Relating to Banking Credit Unions. Ryan Fitzgerald**, Northwest Credit Union Association, stated this bill proposes to update and modernize internal governance provisions of the Idaho Credit Union Act. The legislation updates the requirements for annual credit union membership meetings in order to allow greater access for members, as well as provides for updates for voting mechanisms with new technology. The updates also outline the reasoning and procedures for holding special membership meetings.

Mr. Fitzgerald reported the governance updates include provisions outlining the size, qualifications, and fiduciary responsibilities of a credit union's board of directors. It also includes updates for meeting requirements and locations, election procedures, terms, and vacancies. Additional updates include the basic powers and duties of a board of directors and what duties may not be delegated to other committees, officers, or employees.

Mr. Fitzgerald remarked the legislation provides reorganization of a credit union supervisory committee, while providing minor additions to the stated powers of the supervisory committee, including requiring biennial member account verification and credit union oversight. Provisions outline the bond requirements that each credit union is required to carry in order to insure against risk, which must be reviewed by the board of directors annually.

Mr. Fitzgerald reported there will be no fiscal impact to the General Fund associated with this proposed legislation. The provisions of this proposed legislation specifically relate to corporate governance of state-chartered credit unions and will require no additional resources of the Idaho Department of Finance (DOF). The proposed legislation will not increase or decrease the DOFs revenues.

MOTION: **Senator Souza** moved to print **RS 25963**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

RS 26070

Relating to Insurance. Bill Litster, Idaho Public Policy Institute, stated the purpose of this legislation is to increase the required automobile minimum liability insurance (proof of financial responsibility) from \$25,000 to \$50,000 minimum (for one claimant); from \$50,000 to \$100,000 minimum (for two or more claimants in the same accident); and from \$15,000 to \$50,000 minimum for property damage (to one or several vehicles damaged by the at-fault driver in the same accident). The effective date of this legislation would be January 1, 2019. Automobile liability insurance minimum requirements have not been increased since 1983, almost 35 years ago.

The same \$25,000 in medical services that a person received in 1983 would cost over \$110,000 today - after adjustment for medical inflation, according to federal statistics. Similarly, Mr. Litster asserted the current required \$15,000 cumulative minimum property damage insurance is insufficient to cover the cost of replacement of, for example, a 2018 Ford F-150 and a Toyota Camry totalled in a single accident by an at-fault driver. According to insurance companies, approximately 20 percent of Idaho drivers who buy insurance buy only select the \$25,000/\$50,000 minimum liability requirements.

Mr. Litster noted the precise savings are yet to be determined. The benefit to the General Fund, specialty funds of State and county governments should be significant. Collectively, payments toward medical bill on hundreds of automobile accidents total millions of dollars annually. Additionally, the front-line medical community will benefit along with employers and health insurance companies.

MOTION:

Senator Martin moved to print **RS 26070**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

RS 26072C1

Relating to Covenants Not to Compete. Vice Chairman Guthrie stated this legislation revises covenants not to compete by removing and revising the requirements for rebuttable presumptions in Idaho's non-compete employment law. This legislation also makes technical corrections to Idaho Code § 44-2702 by striking "section" and replacing it with "chapter." Revised definitions of "key employee," "key independent contractor," and "legitimate business interest" are provided in order to be consistent with the other sections of Idaho Code.

Vice Chairman Guthrie reported that because this addresses Idaho Code sections that set parameters for private covenants surrounding Idaho employment laws, there will be no fiscal impact to the General Fund or any other State fund or local government. This section currently does not, and will not, require any government expenditures.

DISCUSSION:

A discussion ensued between **Vice Chairman Guthrie** and **Chairman Patrick** regarding gathering the non-compete information on a case-by-case basis.

MOTION:

Senator Thayn moved to print **RS 26072C1**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 26077

Relating to Insurance Across State Lines. Senator Foreman reported this legislation proposes to establish the Idaho Free Market Insurance Act. This Act would allow individuals and groups to lower their health insurance costs by making available competitive health plans from out-of-state insurance companies. This legislation requires the Director of the Idaho Department of Insurance (DOI) to issue a certificate of authority to an out-of-state insurer to sell accident and sickness insurance policies in this State. Such certificates may be issued only if that insurer is licensed in good standing in another state, remains licensed in that state, and complies with Idaho's mandatory coverage requirements. Out-of-state insurers must use appropriate forms that are clear and not misleading, and must participate in Idaho's premium tax and high-risk reinsurance pool. This legislation gives the Director of the Idaho DOI the authority to enter into compacts with other states to ensure consumer protection for Idahoans purchasing policies from out-of-state companies.

Senator Foreman commented the insurers will remit Idaho's premium tax and participate in the High-Risk Reinsurance Pool. The impact should be neutral to the State budget.

DISCUSSION:

Senator Burgoyne asked if the DOI Director would have authority over out-of-state carriers. **Senator Foreman** remarked he was not certain, but this Routing Slip (RS) will give the State a high level of control. **Senator Burgoyne** queried if the claims adjusters would have to meet Idaho standards or those of the other states. **Senator Foreman** stated Idaho would be in control. Idaho Code and DOI rules and regulations would have to be followed. **Senator Burgoyne** and **Senator Foreman** discussed prior approval for medical procedures and the degree to which the legislation would stipulate following Idaho standards.

MOTION:

Vice Chairman Guthrie moved to print **RS 26077**. **Senator Potts** seconded the motion. The motion carried by **voice vote**. **Senator Lakey** asked that the Director of the DOI be present at the next hearing.

PASSED THE GAVEL:

Chairman Patrick passed the gavel to Vice Chairman Guthrie.

RS 26101

Relating to Pharmacy Benefit Manager Transparency Act. Chairman Patrick stated that Pharmacy Benefits Managers (PBMs) are middlemen that were originally designed to reduce administrative costs for insurers, validate patient eligibility, administer plan benefits, and negotiate costs between pharmacies and health plans. He commented that today, PBMs have control over almost all aspects of prescription drug transactions, with the three largest PBMs managing 78 percent of the prescription drug benefit transactions. **Chairman Patrick** reported the purpose of this legislation is to establish a PBM Transparency Act that would include registration and disclosure of information requirements. In addition, it would establish transparency of the covered prescription drug lists and the methodology that determines how reimbursement to pharmacies is ultimately calculated.

Chairman Patrick reported there is no fiscal impact to the State's General Fund. The legislation gives the Idaho DOI rulemaking authority to administer fees that would cover all costs.

MOTION:

Senator Lakey moved to print **RS 26101**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Vice Chairman Guthrie passed the gavel back to Chairman Patrick.

RS 26038

Relating to Firefighters. **Senator Lee** reported this proposal provides local discretion for decision making regarding the type of medical screenings required for full-time, part-time, or volunteer firefighters. Current legislation requires specific screening standards. Allowing more flexibility in medical screening choices is intended to decrease costs, improve access to more medical screening options, and reduce unnecessary barriers to entry, especially for rural fire districts. There is no requirement that any district change its medical screening choices.

Senator Lee commented there is no fiscal impact to the General Fund, as these costs are paid by local fire districts and fire departments. It is expected that costs will stay the same for districts who do not choose to make a change, whereas costs will likely decrease for districts who select a different screening medical service or provider.

DISCUSSION:

Senator Lakey queried, if a firefighter moved to another district, would that individual have to comply with the standards of the new district. **Senator Lee** affirmed and noted the legislation would allow fire districts to have higher standards than what is prescribed. Many full-time, city districts have higher standards than what is prescribed in this proposed legislation. **Senator Souza** remarked that rural fire districts are different than those in the larger cities because they have volunteers. She queried if this meant that the volunteers do not have standards or medical exams. **Senator Lee** remarked that some State and federal wage laws indicate that if an individual is paid at all, they are a paid firefighter. But if a firefighter is a volunteer and then goes out to a fire and is paid, then that firefighter is under the paid fire rules. Not all districts understand that.

Senator Ward-Engelking queried how this change would affect Workers' Compensation. **Senator Lee** stated she would have answers when the bill had a hearing. **Senator Lakey** asked if there was a list of standards and were they were commonly used standards. **Senator Lee** commented she supports firefighters; their health and safety are important. **Senator Burgoyne** asked what a screening exam involved; he wondered if it was comparable to a \$25 sports physical. **Senator Lee** reported she was not interested in recommending a \$25 sports physical for firefighters, but something more comprehensive.

MOTION:

Senator Souza moved to print **RS 26038**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1234

Relating to the Idaho State Tax Commission (STC). **Cynthia Adrian**, Tax Policy Specialist, stated this bill relates to how the STC conducts background checks for employees. Currently, the STC uses the Idaho State Police (ISP) system; this system checks with eight Western states for criminal records. This bill will allow for a nationwide background check for current employees, contractors, and all new hires, to determine their suitability to have access to federal income tax information. This is important because the Idaho income tax code is based on the Internal Revenue Code. **Ms. Adrian** commented it is necessary for the STC to comply with the Internal Revenue Service (IRS), according to Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, which requires agencies receiving federal income tax information to follow procedures that include a nationwide background check.

Ms. Adrian advised the first-year cost is approximately \$30,720. This sum consists of \$10,000 worth of equipment and the processing fees of \$37 each for the 560 employees. In subsequent years, the STC would have to continue

to check the backgrounds of newly-hired employees. The STC turnover rate, including retirement, has been approximately 20 percent or 112 employees. This rate of turnover would result in an estimated annual cost of \$4,144. The STC will absorb any costs associated with this bill within its current appropriation.

DISCUSSION: **Senator Martin** inquired as to the current processing fees. **Dawn Peck**, Idaho State Police (ISP), commented the fees are currently \$25.

MOTION: **Senator Potts** moved to send **S 1234** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Kevin Settles of Boise, Idaho, to the Idaho Health Insurance Exchange Board - Your Health Idaho (YHI) to serve a term commencing April 10, 2017 and expiring April 10, 2021. **Mr. Settles** stated he owns and operates Bardenay Restaurant in Boise, Eagle, and Coeur d'Alene. He and his businesses have earned nationwide recognition in the Wall Street Journal, USA Today, Fortune Magazine, Forbes, MarketWatch, National Public Radio, Modern Marvels, and an A & E Television Network Show on the History Channel. In 2011, he was named Idaho Restaurateur of the Year. **Mr. Settles** is a member of the National Restaurant Associations Board of Directors, past President of the Idaho Lodging and Restaurant Association's Board of Directors, Secretary of the Bogus Basin Recreational Association Board of Directors, and a Commissioner on the Idaho Commission on Human Rights.

GUBERNATORIAL APPOINTMENT: **Senator Burgoyne** moved to send the gubernatorial appointment of Kevin Settles, to the Idaho Health Insurance Exchange Board - YHI to the floor with the recommendation that he be confirmed by the Senate. **Senator Lakey** seconded the motion. **Senators Martin** and **Burgoyne** thanked Mr. Settles for his service. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND HEARING: The appointment of Janice Fulkerson of Meridian, Idaho, to the Idaho Health Insurance Exchange Board - YHI to serve a term commencing April 10, 2017 and expiring April 10, 2021. **Ms. Fulkerson** reported she has over 25 years of progressive leadership and experience in the health care and social services industries. She has expertise in administration, strategic planning, payer and provider contracting, program and product development, operations, and infrastructure development. Currently, she owns Unify Consulting Services, which is an Idaho-based firm delivering business solutions for organizations, with a focus in health care and social services. Through a commitment to make a positive contribution, each project is customized and focused on improving market presence, organizational development, and long-term strategic planning. Additionally, as Director of Contracting for Northpoint Recovery, she develops and directs payer and provider contracting in Idaho and the State of Washington for both inpatient and outpatient recovery facilities. She directs and manages contract negotiations with commercial payers, health care networks, and government programs.

GUBERNATORIAL APPOINTMENT: **Senator Potts** moved to send the gubernatorial appointment of Janice Fulkerson to the Idaho Health Insurance Exchange Board - YHI to the floor with the recommendation that she be confirmed by the Senate. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie to introduce the presenter for the rule being reviewed.

**DOCKET NO.
38-0409-1801**

Rules Governing the Use of the Chinden Office Complex. **Keith Reynolds**, Deputy Director, Idaho Department of Administration (DOA), reported this property was transferred to State control on December 21, 2017; the property requires immediately applicable rules to govern its use. The rulemaking uses the existing rules framework for the Capitol Mall and multi-tenant facilities and applies it in a single chapter to the new office complex. Variations to accommodate the sports facilities and private entity tenants are included; however, the majority of the provisions are those in place for the Capitol Mall and multi-tenant facilities elsewhere in the State.

There is no fiscal impact to the General Fund or to the State.

DISCUSSION:

Senator Lakey and **Mr. Reynolds** discussed the use of the recreational facilities and the definition of a private event. **Mr. Reynolds** commented the rules may be changed to add or address different options.

Senator Martin commended Mr. Reynolds for his foresight in acquiring the Chinden facility.

Senator Burgoyne commented he saw some potential issues, noting this is not a typical government complex. He stated there are private business tenants who will be impacted by government activities. He noted there was nothing in this rule about activist demonstrations or activities that usually take place on the Capitol steps. Tenants may feel ingress and egress are compromised. **Mr. Reynolds** remarked there will be some of those conflicts based on the way the Chinden campus is configured. Tenants want to know how the campus will be used.

Vice Chairman Guthrie stated he did not particularly like when government becomes involved in the private sector. He queried if there would be a rule relating to rental rates. **Mr. Reynolds** indicated the State does not have the authority to grant a lease to a private entity and the intent was to house government entities and nonprofits. He explained the State was forced to take private tenant leases through the purchase of the property. The State wanted to keep Hewlett-Packard (HP) in Idaho and to accommodate the tenants. This purchase will provide quality housing for State agencies.

MOTION:

Senator Burgoyne moved to approve **Docket No. 38-0409-1801**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel to Chairman Patrick.

Chairman Patrick reminded the Committee of the newly-formed Regulatory Reform Joint Subcommittee (RRJS) and asked for volunteers.

ADJOURNED:

There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:45 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary