

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 13, 2018

TIME: 1:00 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 Senate Commerce and Human Resources Committee (Committee) to order at 1:00 p.m.

HONORING OF PAGE: **Chairman Patrick** honored page Micah Mensing. **Micah Mensing** shared what he learned while being a Senate page. He found it interesting the Senate did not use Robert's Rules of Order as he does with the Parliamentary Procedure Team at Declo High School. **Mr. Mensing** talked about his future. He stated he was considering attending George Fox University or Stanford University. **Chairman Patrick** thanked him for his testimony. He stated the Committee appreciated his service.

Chairman Patrick announced as the first presenter was not present, **H 466** would be placed at the end of the agenda.

H 547

Relating to Building Codes. Ken Burgess, Idaho Building Contractors Association (BCA), stated the intent of this proposed legislation is to amend the Idaho Building Code Act, Idaho Code Chapter 41, Title 39, to clarify local jurisdictions are limited in their authority to adopt residential building codes that differ from building codes reviewed, amended, and adopted by the Idaho Building Code Board (BCB). **Mr. Burgess** remarked the legislative intent of the BCA is to provide uniformity and consistency for residential building codes across jurisdictions of the State. This legislation would clearly define the role of local jurisdictions in maintaining this intent.

Mr. Burgess referred to the Idaho Attorney General's opinions (Attachments 1 and 2). He pointed out some of the issues opponents may have with this bill. He referred to a letter (Attachment 3) from the Idaho Division of Building Safety (DBS) regarding local issues relating to snow and wind load, seismic design, and flood hazards. He emphasized uniformity and consistency in applying the Idaho Building Codes (Codes) [International Building Code (IBD), International Residential Code (IRC), International Energy Conservation Code (IEEC), and the International Existing Building Code (IBC)], across jurisdictions. The plain language of the code allows jurisdictions to amend the code, but does not allow replacement of the code in a wholesale manner. He noted there were parts of the bill that needed to be amended.

Mr. Burgess reported there is no impact to the General Fund. He commented the Idaho BCB meets quarterly to review building code matters. The members of the BCB are paid a per diem stipend for meetings from the Building Program

Fund within the DBS budget. This legislation would not impact the frequency of meetings or the per diem stipend.

TESTIMONY: **Seth Grigg**, Idaho Association of Counties (IAC), testified in opposition to the bill. He emphasized counties needed to have the flexibility to adopt local building codes for the protection of life and property. He remarked **H 547** would prohibit counties from amending State building codes to proactively protect the general welfare, health, and safety of citizens. **Mr. Grigg** expressed a concern on behalf of the IAC if the codes is amended, the Idaho Administrative Code (IDAPA) rules that allow for local adoption would be amended, which would affect the ability of local jurisdictions to adopt local building codes.

DISCUSSION: **Senator Potts** stated he agreed local jurisdictions should have flexibility. He queried if there was something in the bill where each region could fill in the blanks. **Mr. Grigg** stated he was concerned with the language on page 4 of the bill that states, "the local jurisdiction that an immediate threat to human life or safety exists," and "makes amendment to codes as reasonably necessary." **Chairman Patrick** commented there was a forthcoming amendment.

Senator Souza queried if the language on page 4 of the bill was amended, was that something IAC could move forward with. **Mr. Grigg** remarked he would have to see the language.

Senator Burgoyne queried if the IAC had been asked for input before the legislation was drafted. **Mr. Grigg** replied in the negative. **Senator Burgoyne** and **Mr. Grigg** discussed the wording of "immediate threats to human life or safety" and how problems could possibly be solved through litigation.

TESTIMONY: **Steve Martinez**, Tradewinds Building Company, testified in support of this bill. He gave a brief history of the three-year cycle of building codes. He remarked there were significant changes in the new book. Contractors have to learn the changes. He stated the Code Collaborative has eroded and special interests have become involved. He reported his company works with two different counties and several cities in the Treasure Valley. He has to know all of the changes for each city. He pointed out there is a residential code and an energy code. The IECC brings with it the largest expense, which makes it difficult for small businesses to be successful.

DISCUSSION: **Senator Lakey** and **Mr. Martinez** discussed special interests and how over time there has been an increase in representatives selling energy-efficient products from out-of-state.

Senator Souza and **Mr. Martinez** discussed the problems associated with the energy portion in the bill.

TESTIMONY: **Teresa Harper**, Idaho Chapter of the American Institute of Architects (AIA), spoke in opposition to the bill. She referred to two letters from the AIA (Attachments 4 and 4A). She noted this proposed bill puts Idaho in jeopardy. Every time building codes require structures to be more secure and resilient, the life and property of the public becomes endangered. **Ms. Harper** referred to a letter of opposition from the AIA Mountain Section of the Idaho Chapter (Attachment 4A).

Pat Minegar, A-1 Heating, testified in support of the proposed legislation. He remarked it was physically impossible to teach all of the building codes to everyone. He expressed his frustration in not making any headway when working with all involved entities. He commented there has always been an issue of consistency and uniformity in the building codes. He discussed the difficulty of training 150 employees and apprentices on all of the different codes

in varying jurisdictions. He stated he supported the ability to have building code uniformity across the State.

Mr. Minegar reported he is also a Director for the BCA. The mission is affordable housing. He stated a study was recently conducted by an independent firm noting that updating from the 2009 Energy Code to the 2018 Energy Code would cost from \$5,000 to \$7,000 to save \$276 annually. Many will not be able to afford a home because of the price increase. He expressed his frustration in not making any progress in amending the codes. He urged the Committee to think about the codes and to separate the residential and commercial part of the code.

TESTIMONY: **Andrew Erstad**, representing himself, testified in opposition to the proposed legislation. He reported research has not been conducted and there are unintended consequences from these changes. He urged the Committee to reevaluate the legislation. He noted, as an architect, he has all kinds of codes which have to be adjusted depending on the agency. He noted when jurisdiction ability is eliminated to amend the codes, the opportunity is lost for administrative actions to help develop business. He urged the stakeholders to go back to the table and to separate residential from commercial.

TESTIMONY: **Roy Ellis**, builder, Idaho Falls, testified in support of the proposed legislation. He stated he was involved in building speculative, customer-built, and pre-built homes. He reported he was supportive of uniformity in code. He was opposed to the energy section in the codes due to cost. He asserted the consumer should decide how much to spend on a light bulb.

TESTIMONY: **Jason Blais**, City of Boise, Building Official, testified in opposition to the proposed legislation. He mentioned he serves on the BCB and has been involved in this process for several years. He reported there were several attorneys who looked at the bill and stated it is a legal conundrum as written. He pointed out an error on page 1, where parts of the codes are accepted, whereas and in another section, the same parts are not accepted. He remarked cities and counties should have the ability to make amendments to suit their locale. He urged the commercial section be separated from this bill.

DISCUSSION: **Senator Potts** and **Mr. Blais** discussed the proposed legislation specifically related to the customization of the codes to meet city and county needs and the immediate threat to human life.

TESTIMONY: **Mr. Burgess** concluded his presentation. He stated the issues discussed would be addressed through the amending order process. **Chairman Patrick** stated the amendment must be in writing today. **Mr. Burgess** directed stakeholders to the BCA website, which makes members aware of all codes changes with a notation of what codes have not been changed. He noted jurisdictions are allowed to amend codes with good cause.

MOTION: **Vice Chairman Guthrie** moved to send **H 547** to the **14th Order**. **Senator Thayne** seconded the motion.

DISCUSSION: **Senator Ward-Engelking** commented this bill has caused a firestorm. She asserted this bill is not ready and needs to be amended. **Senator Burgoyne** agreed with Senator Ward-Engelking. He stated this is a critical issue that needs work.

Senator Lakey disclosed for the record under Senate Rule 39(H), his law firm represents contractors and local government entities. He expressed support for the legislation. He remarked it was worth the effort to amend the bill and find common ground.

Senator Souza expressed concern about the IECC, which is the crux of the problem. She wondered if the amending process would be easier if that section was removed. **Mr. Burgess** stated that was a much broader question. Part 4 of the bill is the energy portion of the Idaho Residential Code (RC).

Senator Potts stated he supported the motion. He remarked it was time to pass a bill so the various stakeholders would find common ground.

SUBSTITUTE MOTION:

Senator Burgoyne moved to hold **H 547** in Committee. **Senator Ward-Engelking** seconded the motion. The motion failed by **voice vote**.

VOTE ON ORIGINAL MOTION:

The motion carried by **voice vote**. **Senator Burgoyne** voted **nay**.

H 466

Relating to Minimum Wage Exemption. **Representative Ron Nate** reported this legislation would add a new section to Idaho Code § 44-1504. The new section would provide an exception to Idaho's minimum wage law. **Representative Nate** remarked children and family members currently working on a family farm are exempted from minimum wage regulations. This legislation would provide a similar exemption for children and family members working in a family business.

Representative Nate acknowledged there is little or no fiscal impact to the General Fund because this is an exception to a regulation and would require no additional administrative or enforcement costs. He added this exemption may lead to both a decrease in wages for some workers and an increase in hiring and could, therefore, result in somewhat higher or lower tax collections from workers and employers.

DISCUSSION:

Senators Lakey and **Potts** commented they thought this was a good bill.

MOTION:

Senator Potts moved to send **H 466** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman Patrick** adjourned the meeting at 2:02 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary