

MINUTES

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DATE:** Thursday, January 17, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, 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 1:30 p.m.

**RS 26439** **Relating to the Uniform Securities Act.** **Jim Burns**, Securities Bureau Chief, Idaho Department of Finance (IDF), provided background information and the rationale for this proposed legislation. He noted the purpose is to adapt the statute to numbering changes in federal statute. The IDF proposed these changes to retain authority to continue to require certain securities issuer filings and fees that were affected by federal preemption and rules passed by the U.S. Securities and Exchange Commission. **Mr. Burns** noted if the IDF is unable to effect this statutory change, the IDF estimates that approximately 300 issuer filings may be affected resulting in an estimated loss of revenue in an amount not greater than \$20,000. Failing to make this change may also deny Idahoans ready access to information regarding certain securities issuers (Attachment 1).

**DISCUSSION:** **Senator Lakey** questioned whether the federal and generic changes were open-ended and addressed in rule. **Mr. Burns** remarked this change was addressed in rule.

**MOTION:** **Senator Thayn** moved to send **RS 26439** to print. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

**RS 26456** **Relating to Collection Agencies.** **Anthony Polidori**, Consumer Finance Bureau Chief, Idaho Department of Finance (IDF), stated the purpose of this legislation is to amend current provisions to reduce regulatory burdens on licensees. A provision is added to allow collection agencies to collect incidental charges included in the contract between the creditor and the debtor. **Mr. Polidori** commented additionally, the legislation makes the licensing process for collection agents, debt counselors, credit counselors, and credit repair entities similar to other entities licensed by the IDF by requiring the use of a nationwide system of licensing and allowing for reinstatement of expired applications.

**Mr. Polidori** advised that further, the legislation creates a Collection Agency Recovery Fund to allow reimbursement to persons to whom an Idaho court awards actual damages resulting from acts constituting violations of this chapter by a collection agent, debt counselor, credit counselor, or credit repair organization. To pay for the recovery fund, all licensees will have to pay a fee of \$250 for home office locations and \$100 for each branch office. However, to offset the recovery fund fee, the bonding requirement for licensees is eliminated. **Mr. Polidori** explained finally, the legislation addresses the need for enhanced communication between the IDF and the industries it oversees through measures authorizing the creation, by rule, of

an industry advisory board.

**Mr. Polidori** reported the proposed legislation does not alter license application fees collected by the IDF from licensees or license applicants. Also it does not alter the application of the licensing requirements to entities conducting covered activities in Idaho. There is no impact to the General Fund.

**DISCUSSION:** **Chairman Patrick** commented there have been abuses in the past by unlicensed agencies. **Senator Guthrie** and **Mr. Polidori** discussed the renewal of licenses and reinstatement requirements.

**MOTION:** **Senator Guthrie** moved to send **RS 26456** to print. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**RS 26473** **Relating to Electrical Contractors and Journeymen.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), reported that currently, electrical apprentice registrations expire after five years. In-state journeymen electrician applicants must attend four years of school and work 8,000 hours on the job. Out-of-state journeymen electrician applicants must attend four years of school and work 8,000 hours on the job or work 16,000 hours on the job. Apprentice and limited electrical installer trainee registrations that have expired may not be revived. Filing of and online access to employment verifications forms is only required for apprentices. **Mr. Wing** remarked the Idaho Electrical Board (IEB) and the electrical industry in Idaho have determined these requirements have been difficult for the IDBS to enforce and for many in the trade to achieve, thus creating barriers to entering and remaining in the trade (Attachment 2).

**Mr. Wing** summarized that this legislative proposal changes the length of apprentice registrations from five years to one year, allows in-state and out-of-state applicants to take the electrical journeyman's examination after working 16,000 hours on the job, requires filing of and online access to employment verification forms for all licensees and registrants, and allows the administrators to revive expired apprentice and limited electrical installer trainee registrations. This legislative proposal also gives the administrator of the IDBS authority to enter into reciprocal agreements with states that require electrician qualifications at least equal to those contained in Idaho Code.

**Mr. Wing** noted there is no fiscal impact to any State funds, including the General Fund and the IEB fund. This legislative proposal will change administrative processes associated with electrical licensing and registration, but will not change the costs of these processes or otherwise affect any State funds.

**DISCUSSION:** **Senator Ward-Engelking** addressed negotiated rulemaking and asked if there was consensus during that process. **Mr. Wing** affirmed there was not consensus but the IDBS Board approved the rule with the exception of the ratio (Attachment 1). **Senator Burgoyne** queried if there was an effort to provide consensus. **Mr. Wing** remarked there was a second negotiated rulemaking effort and the language being presented to the IDBS Board was outlined in that meeting. **Senator Burgoyne** and **Mr. Wing** discussed opposition to the rule from industry. **Mr. Wing** explained that statute had to be passed first and opposition was overridden by those in the negotiated rulemaking process. **Senator Guthrie** asked for more clarity and remarked that negotiated rulemaking and legislation did not appear to be consistent with the rules being reviewed. **Senator Ward-Engelking** commented she was concerned about the process and wanted more clarification.

**MOTION:** **Senator Thayne** moved to send **RS 26473** to print. **Senator Lakey** seconded the motion. **Senator Burgoyne** stated he could not support the printing of this Routing Slip (RS), as it appeared the impending issues had not been worked out. The motion carried by **voice vote**. **Senators Burgoyne** and **Ward-Engelking** voted nay.

**RS 26474** **Relating to Electrical Contractors and Journeymen.** **Warren Wing**, Electrical Program Manager, Idaho Division of Building Safety (IDBS), stated that currently, electrical apprentice registrations expire after five years. During this time, an apprentice must attend four years of school and work 8,000 hours on the job. At the end of the five-year registration period, an apprentice must pass the journeyman's examination or renew registration to remain in the trade. An electrical apprentice may not renew a registration unless the apprentice can demonstrate completion of at least two years of school and 4,000 hours of work experience or extenuating circumstances that prevented achieving those requirements. The Idaho Electrical Board (IEB) and the electrical industry in Idaho have determined these requirements have been difficult for the IDBS to enforce and for many in the trade to achieve, thus creating barriers to entering and remaining in the trade. Accordingly, IEB and the electrical industry are in favor of an electrical installer category of licensure for apprentices who wish to remain in the trade without becoming journeymen or remaining apprentices. This legislative proposal will provide for an electrical installer category of licensure (Attachment 2).

**Mr. Wing** remarked there is no fiscal impact to the General Fund and the IEB fund. There will be a positive fiscal impact to electrical contractors employing electrical installers and electrical apprentices eligible to become electrical installers.

**MOTION:** **Senator Thayne** moved to send **RS 26474** to print. **Senator Souza** seconded the motion. **Senator Thayne** remarked there are issues where trained people have barriers to working. Addressing statute changes may help solve the problem. The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

**RS 26445** **Relating to Underground Facilities Damage Prevention.** **Patrick Grace**, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), reported Idaho Code § 55-2205(2) requires underground facility owners to locate and mark all underground facilities in the State of Idaho. Some underground facility owners are also end-user consumers of utility services or commodities. Service laterals are underground facilities located in public rights-of-way or utility easements. End-users do not have operational control of, locational knowledge of, or the expertise or equipment to locate or mark service laterals, despite owning them, because the laterals are in rights-of-way or utility easements. **Mr. Grace** advised this legislative proposal will exempt end-users from the requirement to locate and mark service laterals. Underground facility owners with the ability to locate and mark service laterals will be required to do so.

**Mr. Grace** noted there is no fiscal impact to any State funds, including the General Fund and the Idaho Damage Prevention Board (IDPB) fund. There will be a positive fiscal impact for those underground facility owners who are exempted from the requirement to locate and mark service laterals. There will be a negative fiscal impact to underground facility owners who are required to locate and mark service laterals; however, many of these underground facility owners are already locating and marking service laterals.

**DISCUSSION:** **Chairman Patrick** and **Mr. Grace** had a conversation about how this rule applies to homeowners and others excavating on private property.

**MOTION:** **Senator Souza** moved to send **RS 26445** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**RS 26449** **Relating to Underground Facilities Damage Prevention.** **Patrick Grace**, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), indicated under Idaho Code § 55-2211(1), the administrator of the IDBS recommends and the Idaho Damage Prevention Board (IDPB) imposes training or civil penalties for those who violate Idaho Code § 55-22. This process has proven to be inefficient for the alleged violator, complainant, and the IDBS. **Mr. Grace** reported this legislative proposal will give the administrator authority to impose training or civil penalties and the IDPB authority to hear appeals regarding imposed training or civil penalties. These changes will streamline the process and align with the process for other chapters administered by the IDBS.

**Mr. Grace** advised Idaho Code § 55-2211 provides authority for the IDPB to impose training or civil penalties and enhanced civil penalties for subsequent violations with facility damage. However, Idaho Code § 55-2211 does not allow passage of a certain amount of time to "reset" the violation record of a violator unless the violations involve facility damage. Further, Idaho Code § 55-2211 does not provide penalties for third, fourth, and fifth violations without facility damage. This proposed legislation will address both of these issues.

**Mr. Grace** specified Idaho Code § 55-2211(1) allows the IDPB to impose training for a first violation and civil penalties for further violations. However, this code only allows an alleged violator to contest the imposition of civil penalties. Because the imposition of training potentially affects an alleged violator's future liability under the statute, due process requires that alleged violators be given the ability to also contest the imposition of training. This legislative proposal will allow an alleged violator to contest both training and civil penalties.

**DISCUSSION:** **Senator Burgoyne** pointed out the language in the Statement of Purpose (SOP) and asked **Mr. Grace** to identify where the problem was fixed. **Mr. Grace** indicated the length of time something would be deemed a violation was not stated in the Routing Slip (RS) language. **Senator Thayn** questioned the use of the word, "may." **Mr. Grace** reported the language was old and the word "or" should have been used.

**Senator Burgoyne** explained the sponsor could have the option of changing the language in the RS. **Mr. Grace** replied changes could be made. **Senator Thayn** suggested the RS be held until the changes could be made. **Chairman Patrick** remarked the RS could be held until time certain. **Vice Chairman Agenbroad** and **Senator Guthrie** stated the wording was not as ambiguous as it appeared. **Senators Lakey** and **Souza** questioned the wording and asked to hold the RS for a couple of days. **Mr. Grace** agreed.

**MOTION:** **Senator Thayn** moved to hold **RS 26449** for time certain. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**. **Senator Guthrie** asked to be recorded as voting nay.

**RS 26452**

**Relating to Underground Facilities Damage Prevention.** **Patrick Grace**, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), addressed the discrepancy in Idaho Code §§ 55-2205(2) and 55-2202(15) related to the marking of underground facilities. The discrepancy concerns the best information available to the owner with reasonable accuracy and an underground facility which has been identified but cannot be located with reasonable accuracy. He noted the proposed legislation will revise and align Idaho Code §§ 55-2205(4), 55-2205(2), and 55-22028(5) to avoid duplicative reporting. The Idaho Damage Protection Board (IDPB) and stakeholders believe underground facility owners are best situated to report damage to underground facilities and excavators are best situated to report downtime due to violations of Idaho Code.

**Mr. Grace** advised Idaho Code does not have definitions for "hand digging," "soft digging," or "locator." These terms need definition because they will be used in Idaho Code.

**Mr. Grace** indicated there will be a positive fiscal impact to the IDPB fund created by more efficient reporting of damage to underground facilities and excavator downtime. There will also be a positive fiscal impact to excavators, who will not be required to locate and mark identified, but unlocatable underground facilities with reasonable accuracy.

**MOTION:**

**Senator Lakey** moved to send **RS 26452** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**RS 26462**

**Relating to Public Works Contractors.** **Patrick Grace**, Regional Manager, Damage Prevention and Public Works Contractor Licensing, Idaho Division of Building Safety (IDBS), commented Idaho Code § 54-1908 requires the Public Works Contractors License Board (PWCLB) to "hold not less than four regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July, and October." He reported many state boards are only required to hold two meetings per year. The IDBS has found it difficult to coordinate four meetings per year within strict timeframes, especially in years in which the PWCLB must hold additional special meetings for statutorily mandated purposes. Idaho Code requires the PWCLB to be composed of eight members. Four members must be present for a quorum.

**Mr. Grace** reported this legislative proposal will change the number of meetings the PWCLB must hold from four per year to two per year and remove the requirement that the PWCLB meet by the fifteenth day of specific months. This legislative proposal will also change the quorum requirement from four members of the PWCLB to a majority. Changing the quorum requirement will help ensure the actions of the PWCLB are representative of the desires of the entire PWCLB and make it less likely that the votes will result in a tie. **Mr. Grace** disclosed there is no fiscal impact to the General Fund. This legislative proposal will have a positive fiscal impact to the Public Works Contractors License Fund.

**MOTION:**

**Senator Guthrie** moved to send **RS 26462** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**RS 26457**

**Relating to Heating, Ventilation, Air Conditioning (HVAC) Board.** **John Nielsen**, HVAC Program Manager, Idaho Division of Building Safety (IDBS), noted Idaho Code §55-5004 currently requires one HVAC Board member to be a HVAC specialty contractor. The IDBS and the HVAC Board have had difficulty filling this position with a qualified, willing specialty contractor. This legislative proposal will require one HVAC Board member to be a representative of the HVAC industry, instead of an HVAC specialty contractor. This change will allow the HVAC Board and IDBS to adequately fill this position, while ensuring it represents the interests of the HVAC industry.

**Mr. Nielsen** remarked there is no fiscal impact to the General Fund and the HVAC Board. This legislative proposal will change the composition of the HVAC Board, but will not change the costs of conducting HVAC Board meetings or otherwise affect any State funds.

**MOTION:**

**Senator Martin** moved to send **RS 26457** to print. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**RS 26458**

**Relating to Plumbing and Plumbers.** **John Nielsen**, Heating, Ventilation, Air-Conditioning (HVAC) Program Manager, Idaho Division of Building Safety (IDBS), stated this statute change would require a plumbing contractor to also hold a journeyman license, which would align with Docket No. 07-0205-01301 (2015).

**Mr. Nielsen** indicated there is no fiscal impact to the General Fund and the Idaho Plumbing Board fund. This proposal will change administrative requirements associated with obtaining a plumbing contractor license, but will not change the costs of issuing licenses or otherwise affect any State funds.

**MOTION:**

**Senator Ward-Engelking** moved to send **RS 26458** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, **Chairman Patrick** adjourned the meeting at 2:34 p.m.

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Senator Patrick  
Chair

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Linda Kambeitz  
Secretary