

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 05, 2020

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 Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Vice Chairman Agenbroad** moved to approve the Minutes of February 27, 2020. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 420 **Relating to Contractor Registration. Sean Schupack**, Director of Public Policy, Idaho Associated General Contractors (IAGC), indicated this legislation will allow registered contractors the option to place registration on inactive status, thus relieving the registrant from the requirement to maintain insurance during this period. The legislation would require a registrant to provide proof of current insurance to return to active status. Additionally, the removal from the grounds for discipline of gross negligence and reckless conduct intends to eliminate a provision which is difficult, costly to establish, and costly to enforce.

Mr. Schupack noted this legislation should diminish overall costs to the IAGC Board by a reduction in discipline cases.

Mr. Shupack noted there is no impact to the General Fund because the IAGC Board operates solely on dedicated funds. There is no increase to the Idaho Bureau of Occupational Licenses (IBOL) dedicated fund since the proposed legislation will not alter the number of board meetings held each year, require more services be provided to the IBOL Board, or change any fee schedules.

MOTION: **Senator Souza** moved to send **H 420** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote** with **Senator Burgoyne** requesting he be recorded voting nay.

H 419 **Relating to Morticians, Funeral Directors, and Embalmers. Steve Gordon**, Idaho Board of Morticians (IBM), outlined the provisions in this legislation. He noted this bill proposes to remove the secretary position from IBM as it is outdated, to fully merge fee setting authority into IBM rule, and to add failed inspections as a potential ground for discipline. He noted the IBM proposes to amend the education requirements for a mortician's license and move from a set number of credit hours plus an embalming course to an associate degree from an accredited mortuary school. This change will reflect the modern education for mortuary science, since the only place an embalming course is now offered is at a mortuary school. **Mr. Gordon** reported that additionally, the IBM proposes to reduce the number of education credits required from 60 semester hours to 45 semester hours. This change is being made to align with the actual education requirements needed to perform the duties of a funeral director and to further reduce a barrier to entry into

the field.

Mr. Gordon added the proposal includes moving the individual licensing requirement for a certificate authority from individuals to establishments with the resident mortician being responsible for the certificate. Currently, if an establishment loses their resident mortician, the law calls for the immediate cancellation of their license, unless the establishment meets one very specific criteria. This bill will create a 90-day grace period to find a replacement, with the ability to have that time extended for good cause by the IBM.

Mr. Gordon remarked the vague term "crime involving moral turpitude" would be removed and replaced with "a crime that reflects upon the qualifications, functions, or duties of the respective license." Additionally, this bill changes the certificate of authority so rather than individuals holding the certificate of authority, funeral establishments will become the holders. Moving the license from individuals to establishments makes it easier on consumers, because when the time comes to utilize the pre-paid services, clients are looking for the funeral establishment. Long-term record keeping is made easier for licensees and establishments, and it is easier to comply with the required annual audit.

Mr. Gordon stated there is no impact to the General Fund because the IBM operates solely on dedicated funds. There is no impact to the IBOL dedicated fund since the proposed legislation will not alter the number of board meetings held each year, require more services be provided to the IBOL, or change any fee schedules.

DISCUSSION: **Senator Martin** and **Mr. Gordon** discussed the location of the nearest colleges and on-line courses.

Senator Souza asked for clarification as to who would actually hold the license. **Mr. Gordon** explained the funeral home is responsible for keeping the funds and implementing the funeral plans. In response to a question from Senator Souza about who was notified about the changes, **Mr. Gordon** stated the IBM notified stakeholders and has not had any opposition.

TESTIMONY: **Kelley Packer**, Director, IBOL, stated notifications were sent out, there was input from the IBM, and there was no opposition.

DISCUSSION: **Senator Burgoyne** referred to the changes in the bill on page 5 and queried what would be lost by not having a full-time licensed mortician after the 90-day period. **Mr. Gordon** replied the actual resident mortician is responsible for the daily operation of the funeral home. If the resident mortician leaves, it is necessary for someone to be at the funeral home as the resident mortician. **Senator Burgoyne** and **Mr. Gordon** discussed how the public is protected and that the resident mortician also has the overall responsibility, including recordkeeping.

MOTION: **Senator Guthrie** moved to send **H 419** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 422

Relating to Driving Businesses. Rob McQuade, Legal Counsel, Idaho Bureau of Occupational Licenses (IBOL), indicated this is an overall cleanup bill of the State Driving Businesses Licensure Board Enabling Act. The amendments include clarifying the definition of a driving business, modifying the qualifications for the public board member, moving the fees to administrative rule, and clarifying insurance requirements to commercial automobile insurance. **Mr. McQuade** noted the proposed legislation would reduce the apprenticeship training hour requirement to qualify for driving business instructor licensure from 60 to 30 hours of classroom instruction and from 108 to 50 hours of behind-the-wheel training. The bill also includes amendments to reduce duplicative language.

Mr. McQuade stated there is no impact to the General Fund, because the IBOL operates solely on dedicated funds. There is no impact to the IBOL dedicated fund since the proposed legislation will not alter the number of board meetings held each year, require more services be provided to the IBOL Board, or change any fee schedules.

TESTIMONY: **Lisa Brady**, President, Treasure Valley Cycling Alliance Board, testified in opposition to the bill. She asked to have the bill amended to reflect 105 hours of training instead of what was recommended in the bill.

DISCUSSION: A discussion ensued among the Committee members about the comparison of non-public school driving teachers versus public school driving teachers, the extent of education, high accident rates among teenagers, the source of the 105 hours of training, and what the surrounding states require for driving instructors.

TESTIMONY: **Matthew Conde**, American Automobile Association (AAA), testified in opposition to the bill. He asked to have the bill amended to reflect 105 hours of training instead of the proposed 80 hours.

DISCUSSION: **Mr. McQuade** commented the numbers are not about the amount of hours Idaho students have on the road. The number of hours required in this bill is what apprentices must have in order to teach. He noted this is for an apprenticeship program.

Senator Thayne and **Mr. McQuade** discussed that the fees would be set in administrative rule for uniformity.

Senator Souza asked about the origin of the 30 hours of classroom training and the 50 hours of driving requirements. **Mr. McQuade** indicated the IBOL looked at surrounding state requirements and data from Northwest Nazarene University (NNU), and noted that benefits of instruction are lost after 30 hours in the classroom.

Senator Burgoyne expounded on the idea of negligence and commented that would be a good reason not to adhere to the 80-hour requirement, but rather to require 105 hours.

MOTION: **Senator Burgoyne** moved to send **H 422** to the 14th Order of Business for possible amendment. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senator Guthrie** and **Mr. McQuade** discussed the requirements in public schools for driver training instructors.

SUBSTITUTE MOTION: **Senator Guthrie** moved to send **H 422** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion.

DISCUSSION: **Senator Ward-Engelking** noted teachers have had hundreds of hours of preparation and this is not an even comparison. Educators do not need more classroom experience as they have already had that training.

ROLL CALL VOTE: **Chairman Patrick** called for a roll call vote on the substitute motion. **Senators Martin, Lakey, Guthrie, Thayn, Souza, Chairman Patrick, and Vice Chairman Agenbroad** voted aye. **Senators Ward-Engelking and Burgoyne** voted nay. The motion carried.

H 526 **Relating to Insurance - Standards for Annuity Sales and Advertising.** **Dean Cameron**, Director, Idaho Department of Insurance (IDOI), reported this legislation only applies to indexed annuities. The agent is also asked to maintain disclosure records for a time certain and asks insurance companies to surrender charges over a ten-year period. The director of the IDOI would create the disclosure form.

Director Cameron noted there is no fiscal impact to the General Fund because the IDOI operates solely on dedicated funds.

Director Cameron noted the disclosure form must be approved and delivered at the time of sale and upon delivery of the annuity.

DISCUSSION: **Senator Lakey** and **Mr. Cameron** discussed the surrender portion of the bill and that 10 years and 10 percent is an average. **Mr. Cameron** noted additional benefits are offered and some carriers have expanded surrender penalties for as long as 20 years, with hefty back out fees for consumers. Many abuses are seen with senior citizens.

Senator Burgoyne and **Mr. Cameron** discussed the delivery of the disclosure document and that it took effect when the product was delivered to the consumer.

TESTIMONY: **David Petso**, Petso Financial, testified in support of the bill. He reported there are abuses relating to indexed annuities, as well as false advertising. He commented he has a fiduciary responsibility to clients.

MOTION: **Senator Martin** moved to send **H 526** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 529 **Relating to Parties to Action.** **Benn Brocksome**, American Institute of Architects, noted the purpose of this legislation is to ensure architects, engineers, and contractors who are called upon to volunteer during a declared emergency are able to do so with limited liability for their volunteer services.

Mr. Brocksome indicated because this bill provides limited liability protection to volunteers for their services, it does not impact the General Fund or other local taxing districts. He noted Representative Ellis was the author of this bill.

DISCUSSION: **Representative Ellis** stated restoration of services and healing of the community in the wake of a disaster is important. **Senator Souza** remarked architects, engineers, and contractors who volunteer are not paid.

Representative Ellis and **Senator Thayn** discussed the impact of coverage for someone coming from another state to volunteer, what other states offer, and that this bill puts Idaho residents on an even footing to volunteer.

Senator Guthrie and **Representative Ellis** discussed that a volunteer structural engineer would be immune after moving a bridge if the bridge collapsed.

MOTION: **Senator Ward-Engelking** moved to send **H 529** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion.

DISCUSSION: **Senator Burgoyne** noted he did not support this bill due to the liability involved.

Senator Guthrie spoke in support of the bill indicating there is still a level of responsibility for a volunteer. **Senator Souza** and **Vice Chairman Agenbroad** spoke in support of the bill.

VOICE VOTE: The motion to send **H 529** to the floor with a **do pass** recommendation carried by **voice vote** with **Senator Burgoyne** requesting he be recorded as voting nay.

H 503 **Relating to Homeowner's Associations (HOAs).** **Representative Troy** outlined the provisions of the bill. She stated that no HOA may enforce, add or amend any covenant, condition, or restriction that prohibits displaying a political sign. The term "political sign" is defined in the legislation. HOAs may still adopt reasonable rules that regulate the time, size, place, number, and manner of displaying a political sign. HOAs must give property owners three-days notice before removing a political sign and/or imposing a fine or penalty. **Representative Troy** indicated the legislation also provides for the ability of homeowners to install a flagpole of a certain height, to display select flags, including the United States, Idaho, Prisoner of War (POW), or any branch of the armed forces.

Representative Troy noted this legislation has no fiscal impact to the General Fund, other state funds, or any local government budgets. The cost associated with the bill would have a negligible impact on HOAs.

MOTION: **Senator Souza** moved to send **H 503** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 473 **Relating to the Idaho Credit Union Act.** **Richard Sherrick**, Senior Commissioned Financial Institution Examiner, Idaho Department of Finance (IDOF), outlined the legislation and the proposed amendments. **Mr. Sherrick** noted the purpose of this legislation is to grant authority to the director of the IDOF to issue enforcement actions directly to a credit union, provide for confidentiality of examination reports and other confidential information, and authorize credit unions to act as a custodian or fiduciary for tax-advantaged savings plans. He indicated the IDOF worked with the Northwest Credit Union Association (NWCUA), which is the advocacy organization for Idaho credit unions. The proposals contained within this bill are the result of the IDOF and industry's good faith efforts to modernize the regulatory framework and to ensure that the IDOF meets accreditation standards.

Mr. Sherrick indicated there will be no fiscal impact to the IDOF State Regulatory Fund associated with this proposed legislation. The provisions specifically related to enforcement powers of state-chartered credit unions will require no additional resources of the IDOF and will have no impact on IDOF revenues.

DISCUSSION: **Vice Chairman Agenbroad** and **Mr. Sherrick** discussed that this bill makes the credit unions more consistent with the banks.

TESTIMONY: **Emily Hunter**, NWCUA, testified in support of this bill stating it is balanced and provides regulatory relief.

MOTION: **Senator Ward-Engelking** moved to send **H 473** to the floor with a **do pass** recommendation. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:59 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary