

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 28, 2021

TIME: 1:15 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Souza, Senators Martin, Lakey, Guthrie, Agenbroad, Riggs, 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 1:15 p.m.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chair Souza.

INTRODUCTION: **Vice Chair Souza** introduced Dawn Hall, Section Chief, Division of Occupational and Professional Licenses (DOPL).

DOCKET NO. 24-3900-2000F **Chapter 24.39.10.2000F, Rules of the Idaho Electrical Board (IEB), Fee Rule**, p. 234. **Michelle Bird**, Section Chief, DOPL, stated this rule in part was rejected by both the House and Senate committees last year - namely, subsections 9a, dealing with direct supervision and training; and 9b, addressing any violations of the direct supervision requirement.

Ms. Bird noted the IEB changed language in subsection 9a from supervising not more than two apprentices to not more than four apprentices. **Ms. Bird** introduced Patrick Grace, Regional Manager, Division of Building Safety (DBS).

DISCUSSION: **Senator Martin** and **Mr. Grace** discussed the change in the ratio of journeymen to apprentices.

TESTIMONY: **Andrew Bick**, Chairman, Idaho State Building Board, testified in support of the changes. **Marty Durand**, Idaho Building Trades Council, testified in support of the changes and stated she was opposed to any further changes.

DOCKET NO. 24-3900-2000F **Chapter 24.3930.2000F, Rules of Building Safety (Idaho Building Code Rules)**, p. 272. **Ms. Bird** indicated there were several sections of the International Building Code (IBC) that were deleted. The International Residential Code (IRC) also had several sections that were deleted. **Ms. Bird** explained there were sections of the International Energy Conservation Code (IECC) with additions and deletions.

DOCKET NO. 24-3900-2000F **Chapter 24.3950.2000F, Rules of the Public Works Contractors Licensing Board (PWCLB), Fee Rule**, p. 308. **Ms. Bird** advised this rule outlines license renewal, filing deadlines, petitions for extension of time to file, and lapsed licenses. She noted there were no changes.

MOTION: **Senator Martin** moved to approve **Docket No. 24-3900-2000F, Chapters 24.39.10.2000F, 24.39.30.2000F, and Chapter 24.39.50.2000F**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Pat Kelly**, Executive Director, Your Health Idaho (YHI), highlighted the changes and outlined the year for YHI (Attachment 1). He gave an extensive summary of the key accomplishments including 2020 by the numbers, the year in review, open enrollment 2021, and looking ahead to the organization's future.

DISCUSSION: A discussion ensued with **Senator Martin** and **Mr. Kelly** about tax credits. **Mr. Kelly** stated tax credits are based on income and enrollees must buy their insurance through YHI in order to qualify.

Senator Agenbroad remarked the current administration in Washington, D.C., has proposed a new enrollment period. He queried how Mr. Kelly was going to handle the situation and what impact it would have on YHI. **Mr. Kelly** noted YHI is still working through the details with the Department of Insurance (DOI) and is closely monitoring the enrollment situation.

Senator Riggs remarked the U.S. is in a period of transition between two philosophically different administrations and questioned if there would be a severe impact on the operation of YHI. **Mr. Kelly** affirmed there will be an impact, but YHI could make a relatively simple change. **Mr. Kelly** said there is a proposal for enhanced subsidies, which will expand tax credits. He stated there is the potential to allow people who are not currently eligible but making more money to apply for insurance through YHI. **Mr. Kelly** indicated some marketing efforts would be opened up.

S 1009 **Relating to the State Fire Marshal (SFM).** **Dean Cameron**, Director, DOI, reported the purpose of this legislation is to include the SFM and SFM deputies in the same definition as firefighters. **Mr. Cameron** said by including the SFM and deputies in the definition of firefighter, uniformity and a potential career path would be provided for them all.

Mr. Cameron stated this bill clarifies the intent of the original bill, which is to protect those who are impacted by horrific fires in the line of duty. This legislation addresses the issue of fairness and equity. Fire marshals see approximately 10 fatalities a year. **Mr. Cameron** noted it is a challenge to attract and retain the best talent. The distinction between the benefits of a firefighter and an SFM deputy is contributing to that challenge.

Mr. Cameron reported he had carefully analyzed the fiscal impact of workers' compensation insurance and retirement benefits and found none. He consulted with the National Council on Compensation Insurance (NCCI), which rates Idaho's workers' compensation insurance plans. NCCI determines workers' compensation rates in Idaho, and the DOI has the responsibility to approve or reject the rates annually. After evaluation, NCCI said the passage of the post-traumatic stress disorder (PTSD) addition would have little or no effect on the rates. **Mr. Cameron** stated there is no impact to adding PTSD and retirement benefits in the fireman's retirement fund. He remarked there was a rate decrease this year.

Mr. Cameron reported the Firefighter's Retirement Fund, which is well-run by the Public Employee Retirement System of Idaho (PERSI), has just under 8,000 firefighters in the fund. Adding the six SFMs to the fund would have little or no impact. **Mr. Cameron** explained the Rule of 80 is not automatic. The SFM would not receive any benefit for the Rule of 80. Instead, the SFM would get a pro-rata adjustment based on the amount of time spent under each rule. If this bill were passed and the SFM retired the day after it became law, there would be no impact on retirement. If a SFM retires 10 years later, there is a slight adjustment.

Mr. Cameron indicated the primary reason the SFM definition change is being proposed is so that the firefighter does not go backwards if they come to work for the SFM. Importantly, the firefighters are paying for their extra benefit. **Mr. Cameron** stated while other employees in PERSI contribute 7.16 percent of their income towards their retirement, firefighters contribute 8.81 percent of their income for that enhancement to pay for the Rule of 80. Adding the SFMs will increase the SFMs' contribution, but they will not immediately benefit. **Mr. Cameron** noted in consulting with Don Drum, Executive Director, PERSI, adding the six SFMs will not create an impact because of the small number, the pro-rata nature, the delayed benefit, and the costs already paid by the firefighters.

TESTIMONY:

Knute Sandahl, Idaho SFM, shared a story about a tragic fire. He said it was very difficult to see the despair and emotion the SFM deputies and firefighters experienced. He remarked none of the SFM deputies were included in any PTSD benefit or covered under those circumstances. He noted it is difficult to find qualified people for SFM positions in Idaho.

Pro-Tempore Winder testified in support of this bill. He noted the SFMs deserve these benefits.

Rob Shoplock, Vice President, Professional Fire Fighters of Idaho, testified in support of the bill. He explained he has interacted with the SFM's office for the past 23 years. He related a story of a mobile home fire where all four victims lost their lives. One of the victims was pregnant. He noted one of the tasks the firefighters have to do in their investigation is to put monitors on the fire area to test for chemicals. It took several days for the SFM's office to investigate and bring closure to the family.

Mr. Drum testified in support of the bill. He pointed out that PERSI recognizes the career-ladder approach needed for the Rule of 80. It is in the State's best interest to have skilled people in the SFMs office.

MOTION:

Vice Chair Souza moved to send **S 1009** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1013

Relating to Commercial Transactions. **Anthony Polidori**, Deputy Director, Department of Finance (DOF), stated this legislation is to bring efficiencies to licensing new businesses seeking to offer financial services in Idaho, to reduce the burden of licensing and of other restrictions for existing licensees, to update the Credit Code's (CC) administrative enforcement provisions, and both administrative and civil remedies applicable to covered entities, and to reduce administrative costs to the DOF.

Mr. Polidori noted these proposals revise the CC's administrative enforcement process, and the administrative and civil remedies applicable to consumer finance service providers by updating the CC's administrative enforcement and remedies sections to bring them in line with current standards applicable under the Administrative Procedures Act (APA). He reported this bill updates penalties allowed in the case of civil actions brought by the DOF to align with those provided for under the Idaho Mortgage Practices Act and the Idaho Collection Agency Act. The proposal also includes a limitation on the amount of penalty that may apply to a series of violations that are unintentional or a result of computational error.

Mr. Polidori reported these proposals also adopt the use of an electronic system of licensing for license applications and the renewal of a license, thereby eliminating paper application processes. The DOF and its licensees would

utilize the electronic licensing system for completing and reviewing license applications, for the submission and retention of historic records required by the DOF, and for streamlined communications specific to a company's application.

Mr. Polidori remarked the bill would reduce burdens on licensees and license applicants through the removal of liquidity requirements that must be continuously maintained by licensees. **Mr. Polidori** advised that currently, the existing requirement is not directly associated with the activity or size of a company and is not meaningful in determining whether a company is operating safely. **Mr. Polidori** said the DOF already obtains substantial information regarding licensees through the licensing process, such as business history, management, and corporate structure. All of that provides the DOF with a basis for determining the fitness of a company to engage in consumer lending in Idaho. The liquidity requirement represents an unnecessary obstacle to obtaining and maintaining a license, he said.

Mr. Polidori said the proposed amendments specific to an electronic licensing system are modeled after existing Idaho provisions applicable to the DOF's mortgage licensees. This bill will promote standardization of licensing processes utilized by the DOF and the licensees it serves.

DISCUSSION:

Senator Agenbroad queried when the code was last updated. **Mr. Polidori** recalled it was in 2008. **Mr. Polidori** stated there may have been a more recent update that brought in the use of electronic licensing that had not been mandated for all.

Vice Chair Souza remarked it appeared the new language inserted references violating provisions of the Idaho CC. The change seems to be from a judicial review that could occur if someone does not appear to be following the rules of the Idaho CC with respect to agreements or fraudulent or unconscionable conduct. **Mr. Polidori** replied the administrator may issue a cease and desist order and bring civil action. **Vice Chair Souza** asked for clarification about changing to some sort of court-based judicial review.

Vice Chair Souza and **Mr. Polidori** had a lengthy discussion about unconscionable persons involved in what would or would not be considered criminal acts. **Mr. Polidori** clarified the policy was not moving from a court-based review process to a civil-based process. The DOF will be moving to a standard that follows with the APA rather than holding a separate standard, he said. He explained the code has provisions related to unconscionable activity by an unlicensed person that requires the DOF to seek civil remedies related to that type of act. This is in line with what already exists in code. If someone is engaged in fraudulent or unconscionable activity, the director of the DOF would seek civil action.

Vice Chair Souza queried if these changes made it safer for the average consumer who may not understand what they are getting themselves into with someone who is unconscionable or fraudulent. **Mr. Polidori** replied the changes make it better because it allows the DOF to take administrative action under the Idaho Administrative Procedures Act. He said it does not remove any remedies available to the DOF if someone who is unlicensed engages in fraudulent or unconscionable activities. The DOF can ask the court to have this individual cease and desist. **Chairman Patrick** and **Mr. Polidori** discussed the definition of "unconscionable" as described in Idaho Code.

Senator Burgoyne explained the idea of unconscionability, remarking that it has

received intensive attention from the courts. He noted that is not a problematic term for lawyers or judges.

MOTION: **Senator Agenbrood** moved to send **S 1013** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

S 1014 **Relating to Collection Agencies.** **Mr. Polidori** stated this legislation adds a provision to allow collection agencies to collect incidental charges included in the contract between the creditor and the debtor. **Mr. Polidori** noted the purpose of the bill is to incorporate several measures the DOF believes will reduce regulatory burdens on licensees, while also resulting in the reduction of administrative costs.

Mr. Polidori stated these measures will also allow for a reinstatement period that will apply to licensees who have failed to complete a renewal of a license within a specified period. The reinstatement provision would reduce the clerical and administrative work required of both licensees and the DOF when reissuing a license that has lapsed due to a failure to timely renew.

Mr. Polidori indicated the law would also eliminate certain unnecessary license requirements, and reduce reporting requirements and the costs associated with them by providing that current quarterly reporting of a licensee's agents be reduced to an annual reporting requirement. **Mr. Polidori** noted to offset a portion of the reduction in fee revenue associated with this change, fees would be added for a company's branch registration and the fees would be increased for license applications and renewals. He said these fee increases would compensate the DOF for work performed in registering branch locations and aligning licensing and registration fees with the charges applicable to other non-depository entities supervised by the DOF.

Mr. Polidori reported the bill addresses what the DOF perceives as an unintended restriction on debt collection activities and the ability of collection agencies to serve their clients. He pointed out the provisions found in Section 5 of the bill are the result of considerable negotiations between the DOF, the Idaho Collectors Association, and other advocates for responsible restrictions on permissible fees. **Mr. Polidori** said this proposal would allow for collection agencies to collect fees that are provided for within a contract between a consumer and creditor, with limitations on the collection of attorney's fees and litigation costs.

DISCUSSION: **Senator Lakey** expressed a concern that a fee increase is a regulatory burden. This bill is more restrictive than the federal act, he said. He noted another concern was that fees cannot be collected prior to judgement. A debtor can be advised they owe attorney's fees and that are determined by the court. **Senator Lakey** noted this seems to be a little out of order. **Mr. Polidori** remarked the bill exempted attorneys. He said it was an attempt to balance a possible activity where companies could set an amount for collection and attorney's fees that are not related to the debt itself.

Senator Lakey remarked he was concerned about establishing a fee by rule with the government telling collection agencies how much they can charge for a fee. **Mr. Polidori** said that reasonableness would be defined when negotiating language for a rule. **Senator Lakey** noted his preference was to amend the language and make the wording simpler.

Senator Burgoyne stated he shared Senator Lakey's desire for simpler language. For every debtor who cannot pay, on the other side of the equation

is a small-business owner who cannot collect money, which can put them into bankruptcy.

Senator Lakey remarked he is still concerned about the government establishing fees.

Senator Agenbroad commented it was important to look at collection agencies that deal with unsophisticated consumers.

MOTION: **Senator Agenbroad** moved to send **S 1014** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

SUBSTITUTE MOTION: **Senator Lakey** moved to send **S 1014** to the 14th Order of Business for possible amendment. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:53 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary