

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 11, 2021

TIME: 1:30 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 1:30 p.m.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 4, 2021. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1049 **Relating to Banking. Representative Furniss** reported this legislation focuses on three main areas: to provide regulatory relief for state-chartered banks; to bring bank management concerns into today's reality of remote meetings and distancing; and to update fees owed to banks over \$10 billion in asset size.

Representative Furniss noted one of the changes in the bill was to strike the residency requirement for a bank's board of directors. He reported the annual requirement for a bank's board of directors to hold 10 meetings was decreased to 6 meetings. **Representative Furniss** pointed out it is anticipated that many of Idaho's state-chartered bank boards will meet more frequently than the newly proposed requirement of six meetings.

Representative Furniss said an amendment of the other real estate owned (OREO) statute is included in this bill. He reported when a community bank must foreclose on a home or property, the property is acquired and put on the bank's balance sheet as a non-earning asset. He stated the community bank is required to sell the property at market value within a five-year period. He said if the community bank is unsuccessful, a petition can be filed with the Department of Finance (DOF) for an additional five-year period to keep the property in an attempt to resell. He noted that if the request is granted by the DOF, the community bank will be required to write-down the property by 20 percent. He stated that changes in this bill would eliminate the 20 percent write-down. **Representative Furniss** indicated this amendment brings Idaho's OREO language up to industry standards.

Representative Furniss reported the final amendment, which was included at the request of the DOF, makes a correction, not an increase, to the amount of fees state-chartered banks with \$10 billion to over \$20 billion in total assets can be assessed. He said no banks in Idaho will be impacted by this change because none have assets over \$10 billion.

DISCUSSION: **Vice Chair Souza** questioned if a house in foreclosure that has not sold in 10 years would be of the same value. **Representative Furniss** agreed if the house was vacant and not lived in for 10 years, it would not have the same value.

TESTIMONY: **Anthony Polidori**, Deputy Director, DOF, testified in support of the bill. He noted the DOF has worked with Idaho bankers associations over several years to arrive at these changes.

Trent Wright, President and Chief Executive Officer, Idaho Bankers Association, testified in support of the bill. He indicated he met with bankers and the DOF to negotiate items in this bill.

MOTION: **Senator Agenbroad** moved to send **S 1049** to the floor with a **do pass** recommendation. **Vice Chair Souza** seconded the motion. The motion carried by **voice vote**.

RS 28525 **Relating to Public Employee Retirement System of Idaho (PERSI) - Board Member Compensation.** **Don Drum**, Executive Director, PERSI, reported this legislation amends Idaho Code § 59-1304 to exempt PERSI Board members from accruing PERSI service and provides an honorarium in accordance with Idaho Code § 59-509(p). **Mr. Drum** noted all boards in the State have had issues finding qualified and willing candidates for board appointments. He stated one minor obstacle is the fact that participation in PERSI (mandated for state boards that offer a wage) can affect retirement options for potential Board members or applicants. **Mr. Drum** advised many boards have opted for an honorarium rather than a wage. PERSI has not previously made this move as it could and would have the same impact on potential PERSI Board applicants.

Mr. Drum remarked accrual of PERSI service for Board members is de minimis and may impact the ability of the Board member to retire and maintain Board member status. If a Board member wishes to retire and start drawing PERSI, the member must first become inactive (no longer drawing a wage in a PERSI-eligible position). He indicated members of state boards who draw a wage are considered active PERSI-eligible employees. **Mr. Drum** stated drawing an honorarium does not qualify a Board member for PERSI service and allows a smooth transition into retirement.

Mr. Drum explained the legislation would have no impact to the General Fund. He said annual compensation from dedicated funds would increase between \$3,500 and \$7,000 annually, depending upon the number of Board meetings. He reported annual cost increases would be offset by eliminating future PERSI benefits earned and paid in retirement.

MOTION: **Senator Martin** moved to send **RS 28525** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 28534 **Relating to PERSI - Catastrophic Line of Duty Benefits.** **Senator Lakey** reported this legislation provides for a new classification of catastrophic disability benefit under PERSI. He noted this will apply to police officers and firefighters who are catastrophically injured in the line of duty. He said it provides for disability enhancements, specific conditions for payments, and periodic cost-of-living adjustments (COLA). **Senator Lakey** stated this bill also clarifies that a member receiving the catastrophic disability benefit may return to work under certain conditions.

Senator Lakey said this legislation is not anticipated to have any fiscal impact to the General Fund, nor to any other state or local budgets. He added it also would not affect others participating in PERSI because the costs associated with this benefit will be borne by police officers and firefighters who are eligible to receive the benefit. He noted a public safety officer who sustains a catastrophic injury as set forth in this section is eligible for a one-time permanent catastrophic injury benefit in the amount of \$500,000. In addition, he said there would be an ongoing annual

benefit in an amount not less than \$75,000 per year, to be adjusted every four years pursuant to an actuarial study, to determine the change in average public safety officer benefits over the previous four years. **Senator Lakey** reported in the event a public safety officer receiving the catastrophic line of duty benefit dies and leaves a surviving spouse to whom the member was married at the time of the catastrophic injury, the spouse shall receive the catastrophic line of duty benefit for the duration of the spouse's life to which the public safety officer would have been entitled.

In addition, **Senator Lakey** said a public safety officer who seeks to obtain benefits shall apply to the retirement board within 12 months of the date of the incident resulting in the public safety officer's catastrophic injury. He indicated no benefit shall be payable unless the retirement board determines eligibility.

DISCUSSION: **Vice Chair Souza** remarked the definition of catastrophic injury is a concern and \$500,000 is a great deal of money, along with the income. She noted she wanted to know more details and what was being done to curtail any misuse of funds.

Senator Guthrie said he was interested in receiving more information about PERSI and how much the fund would increase, depending on the contribution.

Senator Lakey reported he would address Vice Chair Souza and Senator Guthrie's concerns at the full hearing.

MOTION: **Senator Ward-Engelking** moved to send **RS 28534** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 28470 **Relating to Trust Deeds.** **Senator Wintrow** noted this legislation clarifies the duration of time in which a junior lienholder may bring an action for deficiency resulting from the sale of a secured property. She yielded her time to Barkley Smith, attorney.

Mr. Smith explained Idaho Code does not specify the time period in which action may be brought. He noted the results are extremely inequitable situations where junior lienholders are able to bring actions at any point during the duration of an installment contract. He noted this legislation merely requires the junior lienholder to commence action within the same time period as senior lienholders to provide equity and predictability for consumers and lienholders alike. He noted Idaho Code § 45-1512 requires a money judgment to be sought within three months of a property being sold under a deed of trust due to foreclosure.

Mr. Smith said Idaho Code is intended to allow citizens who have lost their homes to make a fair and honest assessment of their financial situation and have the ability to manage debt quickly after suffering financial disaster. He noted for many, bankruptcy will be the only option. **Mr. Smith** stated the legislation specifies the time period during which lienholders may bring an action. He stated this legislation does not mandate any appropriations and does not mandate any future increase in appropriations.

Mr. Smith explained a loophole exists in multiple situations specifically when either a county forecloses on the property instead of a deed of trust or when a senior and junior deed of trust exist and the senior deed of trust forces the foreclosure and not the junior. He noted because the existing or junior deed of trust did not cause the foreclosure, the deed of trust or security interest is extinguished and the note continues unsecured.

MOTION: **Senator Martin** moved to send **RS 28470** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 28529

Relating to Insurance - Contraception. **Senator Wintrow** noted this legislation allows enrollees up to a 12-month supply of prescribed contraceptives. **Senator Wintrow** indicated that currently, many insurance plans reimburse for only a one-to three-month supply of contraceptive supplies. She said this legislation will require any health benefit plan issued or renewed on or after January 1, 2022, that covers contraceptives approved by the federal Food and Drug Administration (FDA) to provide reimbursement for up to a 12-month refill supply obtained at one time by the enrollee. **Senator Wintrow** remarked the enrollee or prescribing provider may request a smaller contraceptive supply.

Senator Wintrow reported there is no foreseeable fiscal impact to the General Fund because this legislation deals with a policy change for insurance companies.

DISCUSSION: **Vice Chair Souza** asked what changes were made. **Senator Wintrow** remarked the concern was a prescription for abortion, which was omitted. She noted this bill is for prescriptions for contraceptives only.

MOTION: **Senator Ward-Engelking** moved to send **RS 28529** to print. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Senator Ward-Engelking** remarked birth control is a critical issue and it would benefit students and military personnel by being able to receive a 12-month supply of birth control pills.

Senator Lakey said he supported the bill but still had concerns of a mandate to providers.

VOICE VOTE: The motion to send **RS 28529** to print carried by **voice vote**.

S 1057

Relating to the Insured Homeowner Protection Act. **Michael Kane**, American Property Casualty Insurance Association (APCIA), explained the purpose of this bill is to protect Idaho homeowners from the predatory practice involving the assignment of insurance benefits to third parties after the homeowner has suffered a loss; provide notice to homeowners of options as to the repair of their home; and protect homeowners from undue pressure and misleading information.

Mr. Kane gave an example of a homeowner who suffers a loss from a storm. He said the claims adjuster indicates to the homeowner that half the roof is damaged and needs to be replaced, but the contractor replaces the entire roof. The insurance company pays for half the roof, even though the contractor has replaced the whole roof. He said the contractor then pursues the homeowner for the additional amount owed. The homeowner is thus liable with thousands of dollars owed to the roofing contractor for repairs that were never needed. **Mr. Kane** said this bill fixes that unscrupulous practice.

Matthew Jacob, Regional Vice President - Midwest and Rocky Mountains, National Association of Mutual Insurance Companies (Attachment 1), provided a letter of support.

DISCUSSION: **Senator Riggs** queried what kind of safeguards were in place to make sure there was something in the contract designed to help the homeowner, but actually started working in the favor of the insurance company and against the contractor, with the homeowner caught in the middle. He noted that in the attempt to protect homeowners from unscrupulous practices, sometimes the law becomes so complicated that it causes more harm than good. **Mr. Kane** said the DOI has very strict regulations for insurance companies and how they adjust claims. He said this bill speaks to the relationship between the homeowner and the contractor.

TESTIMONY: **Randy Pipal**, Bureau Chief of Consumer Services, Department of Insurance (DOI), spoke in support of the bill. He noted that at the beginning of the pandemic, Director Dean Cameron and he began meeting with the APCIA carriers on a weekly basis to discuss a variety of issues facing the industry.

DISCUSSION: **Senator Lakey** remarked insurance providers are tightly regulated, and he wondered why a contractor who supplies repairs cannot offer an incentive or discount for repairs. **Mr. Pipal** remarked consumers share a portion of the risk and take on a portion in the form of a deductible.

Senator Burgoyne and **Mr. Pipal** discussed that a rebate could be considered fraudulent.

MOTION: **Senator Burgoyne** moved to send **S 1057** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senators Lakey and **Vice Chair Souza** noted they wanted to reserve their vote until the bill is debated on the floor.

H 42 **Relating to the Idaho Patient Act.** **Senator Anthon** explained this bill provides a time extension for the requirements for extraordinary collection actions on medical debts for all goods and services provided to a patient. He said he would yield his time to Brian Whitlock to continue the presentation.

Brian Whitlock, President and Chief Executive Officer, Idaho Hospital Association, gave an overview of the Idaho Patient Act that became law in 2020 to provide more transparency and timely notices to patients, and to protect those patients if unpaid debts ended up in collections. He noted one of the recommendations was to recognize extra time was needed to implement technology for a myriad of electronic health record systems in provider practices across the State to produce the necessary documents. He said, however, the time was lost when COVID-19 occurred.

Mr. Whitlock noted that in the legislation, the negotiated language still protects patients and gives providers the extra six months lost for implementation due to COVID-19. This language has the support of the Idaho Hospital Association, Idaho Medical Association, and Melaleuca.

MOTION: **Vice Chair Souza** moved to send **H 42** to the floor with a **do pass** recommendation. **Senator Agenbroad** seconded the motion.

TESTIMONY: **Susie Pouliot Keller**, Chief Executive Officer, Idaho Medical Association, testified in support of the bill.

DISCUSSION: **Senator Agenbroad** commented he supported the bill as it was reasonable to give hospitals extra time to implement technology.

VOICE VOTE: The motion to send **H 42** to the floor with a **do pass** recommendation carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:32 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary