

MINUTES  
**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Thursday, March 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.

**H 138** **Relating to the Department of Administration - Permanent Building Fund.** **Steven Bailey**, Deputy Director and Chief Financial Officer, Department of Administration (DOA), stated that, consistent with the Governor's Red Tape Reduction Act, this bill eliminates inactive provisions of law originally enacted in 1947. He said because no change will occur in DOA procedures, there is no fiscal impact from this legislation.

**Mr. Bailey** outlined the three sections of code that transfer unexpended appropriations to the Permanent Building Fund. He noted those were Idaho Code § 57-1102 - transferred from projects that remodeled schools; § 57-1103 - transferred from projects that remodeled hospital buildings; and § 57-1104 - transferred unexpended balances in certain bond accounts.

**MOTION:** **Senator Martin** moved to send **H 138** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**H 139** **Relating to the State Personnel System - Sick and Vacation Leave.** **Susan Buxton**, Administrator, Division of Human Resources, stated the purpose of this legislation is to add the ability for State employees to donate sick leave, in addition to vacation leave, to other State employees who have exhausted their sick leave balances.

**Ms. Buxton** said this legislation will have no fiscal impact to any fund sources of the State or unit(s) of local government because the funding is already appropriated based on an employee receiving full pay during the fiscal year.

**DISCUSSION:** **Senator Agenbroad** queried if vacation leave could be donated for sick leave or if vacation or sick leave could be used for vacation. **Ms. Buxton** stated vacation leave could be donated to those who have exhausted sick leave, but sick leave cannot be used for vacation.

**MOTION:** **Senator Ward-Engelking** moved to send **H 139** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**Relating to Employment Security Law. Representative Scott Syme (District 11)** stated this bill amends five sections of Idaho Code, namely, Chapter 13, Title 72, to define custom farming as "agricultural employment;" to reduce the time frame new employers need to pay taxes before qualifying for a reduced unemployment insurance tax rate; to separate a reference to a "cafeteria plan" and an "annuity plan;" to establish a four-week cap on the weeks a claimant can receive benefits after becoming ill; to eliminate the need for training instructors to sign off on continued claim reports; and to correct and reinstate the Director of the Idaho State Department of Agriculture (ISDA) as having authority to waive all or part of fraud or civil penalties and benefit disqualification for overpayments when the Director deems the waiver in the best interest of the ISDA.

**Representative Syme** noted there is no fiscal impact to the General Fund, but the Idaho Department of Labor (IDOL) will save approximately \$75,000 a year.

**DISCUSSION:**

**Senator Burgoyne** commented that agricultural labor is exempt from coverage for unemployment insurance and this bill blocks unemployment insurance access to those employed by custom farming organizations. He queried why the employees of custom farming organizations should be exempt and asked if the Advisory Committee (AC) approved the proposed changes. **Representative Syme** deferred to Jani Revier, Director, IDOL. **Ms. Revier** stated farming is defined as agricultural employment rather than general employment. She advised considering custom farmers as agriculture employees raises the bar necessary for paying unemployment taxes to \$20,000 or more in wages paid in one calendar quarter and changes the employment criteria to hiring 10 or more workers. This lessens the tax burden on small custom farmers, **Ms. Revier** said.

**Senator Burgoyne** asserted if the tax burden is decreasing, these workers will no longer be eligible for unemployment benefits and asked if these workers will only be eligible for reduced benefits. **Ms. Revier** noted this does not have an impact on eligibility but impacts taxes paid. Eligibility is based on each individual's hours worked and the wage base to determine eligibility.

**Senator Burgoyne** stated rates will be driven by claims. He remarked if an employer sees a tax decrease, then either employees are going to collect less unemployment insurance or there will be a subsidy from the other employers who are paying tax for the benefits. **Ms. Revier** reiterated there is not any impact on the benefits but would potentially affect those who are paying into the fund. **Ms. Revier** reported the fiscal impact is neutral; there will be some loss in revenue, but it will be made up by a decrease in administrative costs.

**Senator Burgoyne** remarked there will be no loss in unemployment benefits for employees and there will be no subsidy going from other employers who are paying employment security taxes to the custom farmers to make up for the difference in the taxation premium. **Ms. Revier** clarified there will be no impact to benefits and there will be a neutral revenue tax.

**Senator Burgoyne** inquired about the four-week cap for illness and injury. He affirmed if someone is receiving unemployment and becomes ill or injured, the person remains eligible until or unless they are unable to accept employment. He asked again if the AC commented on these changes. **Ms. Revier** noted that under current law, an individual is no longer seeking work if they fall ill. She said there are many circumstances where individuals can run out of benefits. She pointed out there are situations where an individual should more likely be on Social Security Disability as opposed to being on unemployment insurance. **Ms. Revier** reported this bill is an attempt to prevent someone from being on both programs and to have this benefit focused on the workforce or individuals who are engaged in the

workforce. **Ms. Revier** indicated several states do not have an illness provision to allow claimants to be eligible once they become ill. **Ms. Revier** stated the IDOL is proposing to limit the amount of time an individual could be eligible for benefits and to bring the law more in line with other states' similar laws.

**Senator Burgoyne** asked if the AC was consulted. **Ms. Revier** stated the IDOL did not consult with the it.

**MOTION:** **Senator Guthrie** moved to send **H 142** to the floor with a **do pass** recommendation. **Senator Agenbroad** seconded the motion.

**DISCUSSION:** **Senator Burgoyne** stated he could not support the motion. He remarked he did not like the four-week cap. He said the AC plays an important role and should have been consulted on the legislation. He noted many employees receive illness-related benefits, but when laid off, benefits are lost. Unemployment insurance helps partially compensate employees.

**VOICE VOTE:** The motion to send **H 142** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Burgoyne** requested he be recorded as voting nay.

**H 102** **Relating to Real Estate License Law.** **Michelle Bird**, Section Chief, Division of Occupational and Professional Licenses, and Executive Director, Idaho Real Estate Commission (IREC), stated consistent with the Governor's Red Tape Reduction Act, this bill eliminates inactive provisions of law. The IREC seeks to remove a portion of a definition that requires a real estate license for a "business opportunity" where a transfer of an interest in land by assignment of a lease is involved. She noted leasing is not regulated in Idaho. **Ms. Bird** indicated this small section in the definition of "business opportunity" is contradictory to the absence of regulating leasing in Idaho. She stated leasing should not be regulated in the specific circumstances where it is part of a business opportunity. She remarked business opportunities where the sale of real property is involved will continue to be regulated under license law.

**Ms. Bird** reported the IREC also seeks to remove language requiring a consumer confirm in writing a review of the brokerage's office agency policy. She stated 2020 legislation was passed to remove the requirement for the brokerage to have a written agency policy.

**Ms. Bird** said this legislation will have no fiscal impact on the General Fund or the agency's Special Real Estate Account because deleting requirements does not compel additional agency action or create any new programs.

**DISCUSSION:** **Vice Chair Souza** asked for a definition of "agency" and queried how a consumer knows what agency policies are in place. **Ms. Bird** clarified that real estate agents are still required to follow agency law within license law. **Vice Chair Souza** and **Ms. Bird** discussed that agents are still required to present a client with agency policy.

**Vice Chair Souza** and **Ms. Bird** discussed the sale of an interest in land and real property regulations.

**Senator Lakey** remarked the intent was to describe an interest in land but not limited to a lease, which is still an interest in real property. **Ms. Bird** noted it is a struggle to differentiate between the assignment of a lease that is not regulated and the sale or transfer of real property, which is regulated.

**MOTION:** **Senator Lakey** moved to send **H 102** to the 14th Order of Business for possible amendment. **Senator Burgoyne** seconded the motion.

**DISCUSSION:** Committee members discussed striking the words "interest in," (page 2, line 11), in the bill and leaving all the other language the same or excluding leases. **Ms. Bird** remarked the intent of the legislation is to remove the assignment of a lease.

**VOICE VOTE:** The motion to send **H 102** to the 14th Order of Business for possible amendment carried by **voice vote**.

**H 103** **Relating to the Idaho Nonprofit Corporation Act.** **Will Hart**, Idaho Consumer Owned Utilities Association, noted Idaho Code updated in 2015 and 2019 allowed remote participation in for profit corporation shareholders and directors and for nonprofit corporation directors. He said this proposed legislation updates current law to allow for members of a nonprofit corporation to participate in meetings by remote communication as authorized by the board of directors.

**Mr. Hart** indicated there is no fiscal impact to the General Fund. He explained nonprofit corporation boards of directors that voluntarily authorize the use of remote communication may choose to purchase hardware or additional technology to facilitate remote communication for members.

**MOTION:** **Senator Burgoyne** moved to send **H 103** to the floor with a **do pass** recommendation. **Vice Chair Souza** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:16 p.m.

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Senator Patrick  
Chair

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Linda Kambeitz  
Secretary