

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 10, 2022

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 1:35 p.m.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of March 1, 2022. **Vice Chair Souza** seconded the motion. The motion carried by **voice vote**.

S 1269 **Motion and Vote: INSURANCE - Amends existing law to provide certain limitations on coverage. No new testimony will be heard. Closing remarks limited to 5 minutes.**

TESTIMONY: **Bron Rammell**, Attorney, testified in opposition to this bill. He noted his dad was struck by someone who crossed the double line and the driver was killed. His parents were unaware about how the insurance worked.

Dan Jenkins, of Meridian, representing himself and an injury attorney, testified in support of **S 1269**. He noted he had submitted written testimony at the meeting of March 3, 2022, Attachment 4. on behalf of his client, Ms. Moran whose son was killed by a drunk driver. There were not enough funds to pay for the funeral.

Written testimony was received in support of the bill from Stephen Blackburn.

DISCUSSION: **Representative Ruchti** remarked offset policies did not provide the consumer with an explanation of what they were purchasing. He remarked depending on the Uninsured Motorists (UIM) clause in a policy, not enough money was left over after the case was settled. No one received what was owed and everyone took a hit except for the company who sold the UIM policy. Consumer costs would not increase more than \$1 to \$1.50 over six months. He referred to the example from Progressive Insurance and Geico from the Meeting of March 3, Attachment 2. He stated agents did not really understand offset. Offset policies were meaningless, in his opinion.

Senator Riggs stated people needed help and were not receiving it. Auto insurance should be made more understandable.

S 1281 **Motion and Vote: INSURANCE - Amends existing law to provide for a certain presumption regarding underinsured motor vehicle coverage. No new testimony will be heard. Closing remarks limited to 5 minutes.**

DISCUSSION: **Senator Guthrie** yielded his time to **Jeff Neumeyer**, Attorney, United Heritage Financial Group, who stated auto insurance companies were taking money from policyholder's pockets. Increases in premium costs were significant across the country. He noted **S 1269** was a pile-on for costs. Some of the previous arguments were comparing apples to oranges. He cited the quotes he received for his family. He stated when this type of law was implemented in Oregon, the cost increases were significant.

Dean Cameron, Director, Idaho Department of Insurance (IDOI) remarked offset was a common approach to control costs for consumers. The Idaho Supreme Court Pena case did not say offset coverage was illusory. He quoted from the Idaho Supreme Court conclusion where the UIM coverage provided in the Viking UIM policy should have been available to cover Pena's claim. The Idaho Supreme Court reversed the district court's decision and awarded the judgment in Pena's behalf. **Mr. Cameron** noted the IDOI had room for improvement.

DISCUSSION: **Vice Chair Souza** asked Mr. Neumeyer what the increase on UIM coverage would be in the future based on the Pena case. **Mr. Neumeyer** stated there was a 100 percent increase for UIM and that still was not enough additional coverage when an excess was concerned.

Senator Lakey stated he did not support mandating one coverage over the other. He thought it would be great if insurance companies offered both. He noted **S 1269** included all excess coverage with no option. **S 1281** had a challenge between offset and excess coverage. He stated it was appropriate to make sure there was clarity. He explained it was his preference to work with the IDOI and clarify language related to offset and excess coverage and this explanation should be provided at the inception of purchasing the policy and at renewal.

MOTION: **Senator Lakey** moved to hold **S 1269** and **S 1281** in Committee. **Vice Chair Souza** seconded the motion.

DISCUSSION: **Vice Chair Souza** remarked she agreed with Senator Lakey's comment to revise the form and educate the average citizen. She stated it was the responsibility of the insurance company to help the client understand offset and excess coverage.

Senator Guthrie remarked any time there was a situation where there was a split decision, it was not in the best interest of the Committee to have a vote, and he supported the motion.

SUBSTITUTE MOTION: **Senator Burgoyne** moved to send **S 1269** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senator Burgoyne** remarked it was the consumer that was affected. He believed this bill was a better approach. Society at large had to pay for auto accidents.

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

VOICE VOTE: The motion to hold **S 1269** and **S 1281** in Committee, carried by **voice vote**.

S 1368

OCCUPATIONAL LICENSING - Amends existing law to remove outdated references to moral character. **Kate Haas**, Opportunity Solutions Project, indicated this legislation was a terminology clean-up bill consistent with the Occupational Licensing Reform Act passed by the Idaho Legislature in 2020. She noted the reform bill created a new process for how licensing boards considered and evaluated an applicant's past criminal conviction in Idaho Code Chapter 94, Title 67. She stated the 2020 bill removed licensure denials on the basis of vague or generic terminology related to a criminal conviction, including "moral turpitude" or "moral character." She explained this bill reduced confusion and conflict in law by updating all Idaho Division of Occupational and Professional Licensing (IDOPL) boards and commission statute references in alignment with Idaho Code Chapter 94, Title 67. The bill created clear direction for licensing boards when considering applications.

Ms. Haas stated there was no impact to the General Fund, federal funds, or the IDOPL dedicated fund. This proposal did not make any substantive changes and simply aligned Idaho code references for interpretation purposes of the IDOPL boards and commissions.

MOTION:

Vice Chair Souza moved to send **S 1368** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 588

WILDLAND FIREFIGHTERS - Amends existing law to provide for wildland firefighter differential pay. **Senator Woodward** noted this legislation would allow the Idaho Department of Lands (IDOL) to provide Hazard Differential Pay (HDP) for the IDOL wildland firefighters. This hazardous work involved exposure to flames, smoke, aircraft accidents, and rough remote terrain where the potential for serious injury or death may result. **Senator Woodward** remarked these firefighters had no control over the environmental conditions surrounding them. Many wildland fires were in remote locations and nearby medical treatment may not be readily available.

Senator Woodward stated the growing Wildland Urban Interface (WUI) environment also presented a new challenge for wildland firefighters as they increasingly dealt with panicked, and at times hostile, members of the public. Urban infrastructure such as fuel tanks, ammunition storage, power lines, septic tanks, and wells, all presented additional hazards to firefighters.

Senator Woodward reported the IDOL competed against surrounding states and the federal government to recruit and retain qualified wildland firefighting personnel. The IDOL faced a significant recruitment and retention impediment due to other jurisdictions that provided wildland firefighters HDP equal to 25 percent of hourly rates while engaged in fire suppression activities. This legislation would help protect Idaho's public and private forests and rangeland from wildfire by allowing the IDOL to offer competitive compensation for wildland firefighters by improving firefighter recruitment and retention.

The estimated annual cost for providing a wildland firefighter HDP ranged from \$330,000 to \$390,000 which may impact the General Fund, dependent upon if IDOL firefighters were deployed to fires under IDOL protection or to areas protected by other jurisdictions.

MOTION:

Vice Chair Souza moved to send **H 588** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

WORKERS' COMPENSATION - Repeals and adds to existing law to provide for settlement agreements. **Representative Skaug** reported the purpose of this bill was to streamline the workers' compensation settlement process for involved parties, employers, and injured workers, who chose to settle their respective claims, rather than going to a hearing or trial. Currently, the settlement process was cumbersome, slow, and private party agreements required approval of the Industrial Commissioners. He noted this bill eliminated the requirement of approval of the Industrial Commissioners, except for settlements involving minors, legally incompetent persons, or when either party was not represented by an attorney. The Idaho Industrial Commission (IIC) would still require the parties to submit information regarding settlements.

Representative Skaug stated this bill would have no negative fiscal impact on state or municipal governments or the State General Fund. There would be a positive fiscal impact in the minor lessening of attorney fees for workers' compensation cases contracted to private attorneys by the State. The cost of work hours by Industrial Commission employees would be significantly reduced.

DISCUSSION: **Senator Guthrie** clarified with Representative Skaug if the Governor's office supported this legislation. **Representative Skaug** stated he had only discussed this bill with the Governor's office.

TESTIMONY: The following testified in support of the bill with the overall theme the IIC did not process Workers' Compensation claims in a timely way, the IIC was not interested in their needs, and the process of submitting and settling a claim was cumbersome:

Matthew Andrew, representing himself, noted the process of approval for a claim was a stumbling block.

Patricia Hanson, Social Worker, related her experience with mediation through the IIC. She noted her settlement was denied, the hearing was loud and disrespectful, and the IIC did not tell her why her settlement was denied. After her second hearing, her settlement was approved.

Ty Blinkhorn, representing himself, stated the current process added more time and involved a third party.

Michael McPeck, Workers' Compensation Attorney, said it was important to look at law.

Dennis Berks, retired Mediator for the IIC, explained in 2015 at an executive meeting the IIC declared the process was going to change. All lump sum settlements would be scrutinized but mediated sums would not because the information was confidential.

Todd Joyner, representing himself, Workers' Compensation Attorney, cited a case that was denied. He noticed there was a wide difference between a 100 percent disability and a 20 percent disability level. The claim was scrutinized by the IIC with irrelevant questions being asked.

James Arnold, Workers' Compensation Attorney, stated that prior to 2015 he could tell clients the settlement check would be within two to three weeks but now he was not certain when they may receive their check because the lump sum process had become far more complex and required more scrutiny. He said the hours involved in obtaining a lump sum approval did not change the outcome and all it did was delay the process.

Andrew Mickelsen, Mickelsen Family of Companies, stated he had an opportunity to participate in IIC mediation. It took over four months for a settlement because the IIC stated a document was missing, when in fact it was not. He asked the Committee for a "do pass" recommendation as the bill reduced regulation.

Stephanie Mickelsen, Mickelsen Farms, related a year ago a particular commissioner made it very difficult to make a claim progress. She said the Legislature had to make the process easier for the public. She reported there were many problems in reappointing this particular commissioner.

DISCUSSION: **Senator Guthrie** thanked Ms. Mickelsen for her candor, remarking this legislation was driven by issues with policy and/or personnel at the IIC.

TESTIMONY: The following testified in opposition to the bill with the overall theme the bill needed to be held in Committee or amended:

Darin Monroe, Workers' Compensation Attorney, stated there was a problem with the IIC. The IIC had denied a lump sum settlement even when the doctor said the claimant needed a knee replacement. The medical portion of the claim should have been kept open. He noted if this bill passed, workers' compensation would not have to pay for future medical treatments. He asked the bill be held in Committee. He explained he was on the Advisory Committee of the IIC.

Joe Maloney, Idaho American Federation of Labor - Congress of Industrial Organizations (AFL-CIO), stated this bill was too big of a step and his organization wanted this bill to disappear. However, he would be amenable to an amendment.

Written testimony was received in opposition to the bill from Kent Day.

DISCUSSION: **Senator Riggs** stated he was not as familiar with the IIC and asked if there was anyone from the IIC present to answer questions. Since there was no one, he asked the bill be held at the call of the chair.

MOTION: **Senator Riggs** moved to hold **H 590** at the call of the chair. **Senator Martin** seconded the motion.

DISCUSSION: **Vice Chair Souza** stated this bill had an option stating parties may compromise and settle claims or request a hearing. She queried why would claimants be forced to have the IIC involved? She remarked this was a personnel issue and everyone who had a lump sum settlement must have a review. She stated she would not support the motion.

Senator Burgoyne stated that he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. He thought everyone had heard there was an appointment confirmation issue related to a commissioner and confirmation had not moved forward. He noted it was really important the Committee not try to judge that issue. Commissioners help with contested cases and much like a judge, could easily misunderstand the situation without all of the facts. He said there were those who thought the bill went a little far and wanted the bill amended, which should be considered. He noted based on the testimony heard today, he was ready to support the bill as this could be more of a personnel issue.

Senator Lakey stated he had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote. He stated this bill was appropriate and he opposed the motion.

DISCUSSION: **Representative Skaug** stated there was no testimony changing the outcome of settlements. Former members of the IIC had asked to fix this bill. This was a policy issue and oversight had not been approved. He said he kept medical claims open for life in 70 percent of his cases.

SUBSTITUTE MOTION: **Senator Lakey** moved to send **H 590** to the floor with a **do pass** recommendation. **Vice Chair Souza** seconded the motion.

DISCUSSION: **Senator Guthrie** stated he preferred the original motion and he was not sure if the amendments were appropriate. He was in favor of holding the bill.

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

H 611 **INSURANCE - Amends existing law to provide for conditions for reinsurance.** **Dean Cameron**, Director, Idaho Department of Insurance (IDOI), reported this legislation authorized the Director of the IDOI to apply for a Federal 133 Innovation Waiver, and along with the Board of Directors of the Idaho Individual High Risk Reinsurance Pool (IHRRP), to implement that waiver once approved. In order to obtain larger premium reductions for consumers participating in the individual health insurance market, the legislation halted any reinsurance payments by the IHRRP until the waiver application was approved.

Mr. Cameron noted this legislation would have no additional impact to the State's General Fund or any dedicated fund. The reinsurance waiver application would be completed by the IDOI staff or by the IHRRP Board, without need for any new funding. There would be a one-time \$25 million appropriation for the IHRRP.

Mr. Cameron indicated the waiver would reduce rates from 7 to 8 percent for health insurers and help consumers purchasing health insurance. This would particularly help those that did not qualify for a subsidy.

MOTION: **Senator Martin** moved to send **H 611** to the floor with a **do pass** recommendation. **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 3:10 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary