

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 07, 2023

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Cook, Vice Chairman Lenney, Senators Lakey, Guthrie, Ricks, Foreman, Hartgen, Ward-Engelking, and Ruchti

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 Cook** called the Senate Commerce and Human Resources Committee (Committee) meeting to order at 1:31 p.m.

S 1037 **Workers' Compensation** - Amends existing law to remove a requirement that adjusting offices or officers be located within the state and that adjusters be residents of the state. **Elizabeth Criner**, American Property Casualty Insurance Association (APCIA), noted this legislation removed outdated language added to Idaho Code in 1971 requiring worker compensation insurance companies to have a physical location in Idaho or only contract with Idaho resident adjusters. She stated this legislation did not impact the regulation or oversight of the industry. There was no impact to the General Fund or on local government funds.

She reported this legislation provided more flexibility for employers and employees. She stated the Idaho Industrial Commission (IIC) reported that since 2020, audit and claims inspectors worked remotely. This legislation was supported by the National Association of Insurance Commissioners (NAIC).

DISCUSSION: **Senator Lakey** pointed out the actual statute did not require a brick-and-mortar building located in Idaho. **Ms. Criner** stated the APCIA membership always felt a physical location was mandated by law.

Vice Chair Lenney asked if this proposed legislation became law, would someone from another country be able to handle claims remotely. **Ms. Criner** remarked all companies were regulated by the State of Idaho. Claims adjusters had to follow Idaho Code for workers' compensation insurance. She stated she could not imagine these types of scenarios would be shifted to overseas jobs.

Senator Ruchti indicated he wanted to follow up on Senator Lakey's and Vice Chair Lenney's questions. He questioned by removing the word "resident," would overseas companies be allowed to do claims adjusting. **Ms. Criner** remarked this legislation eliminated the requirement the adjuster had to be located in Idaho. **Senator Ruchti** noted there was no requirement in code for a brick-and-mortar building. Adjusters could work from home. **Senator Ruchti** and **Ms. Criner** discussed the level of regulations for workers' compensation through the IIC, marketplace pressures, and how companies were covered by regulations in Code.

In response to a question by Senator Ward-Engelking, **Ms. Criner** noted there was no opposition from the IIC to this legislation

Senator Lakey questioned the brick-and-mortar idea. **Ms. Criner** reported the APCIA membership interpreted the law to mean there had to be a physical building.

Senator Ruchti noted workers' compensation was specialized. He queried why was this issue not vetted with the IIC Advisory Council prior to bringing this legislation forward. **Ms. Criner** replied the first opportunity to visit with the IIC was in early January and at the next meeting of the IIC Advisory Council on February 8, 2023.

TESTIMONY:

The following testified in support of the bill and submitted written testimony, noting the requirement for brick-and-mortar was outdated: **Charlotte Cunningham**, Givens-Pursley, Northwest (NW) Insurance Council (Attachment 1).

The following testified in opposition to the bill, noting this legislation had a negative impact, loss of jobs and business, more litigation, detrimental to workers' compensation, offshore competition, and injury to workers: **Cindy Weigel**, Boise, President of Intermountain Claims (Attachment 2); **Matthew Vook**, testified remotely and represented himself; **Chris Wagener**, represented himself and Petersen-Parkinson; **Michael McPeek**, Attorney, represented himself; **Stephen Thomas**, Attorney, Intermountain Claims, and **Matthew Andrew**, claimant Attorney, Idaho Trial Lawyers Association (ITLA).

Written testimony in support of the bill was received from the National Association of Mutual Insurance Companies (Attachment 3), and in opposition from Matthew Romrell, Attorney (Attachment 4), James C. Arnold, Attorney (Attachment 5), and Scott Hall, Attorney (Attachment 6).

DISCUSSION:

Ms. Criner said the rule stated, "all insurance carriers, self-insured employers, licensed adjuster service, workers' compensation claims shall maintain an office within the State of Idaho." If a high quality of service was provided, there was no reason to believe the marketplace would not support the business. Claims adjusters were needed that understood how the State of Idaho worked. Two regulatory entities oversaw these companies. She noted there would be more opportunity in the marketplace for companies with the passage of this legislation. There were many ways that people interacted and communicated to ensure the claimant was supported.

Senator Ruchti gave a brief history of workers' compensation laws. Currently, workers had an efficient system that worked well. He noted if adjusters were allowed to work outside of the State the system would break down.

MOTION:

Senator Guthrie moved to send **S 1037** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION:

Senator Guthrie remarked suppose the rule was in error and in statute a brick-and-mortar location was not required. He noted the entire statute should be read because the rule and the statute did not agree. He remarked if a business model was better than the competition, the business was profitable.

Senator Foreman spoke in support of the legislation. He understood the concern of keeping services in Idaho. However, current practices used the internet. A qualified business should be allowed to compete.

Senator Lakey stated he had a potential conflict of interest pursuant to Senate Rule 39(H), but intended to vote. He noted he was a member of the State

Insurance Fund Board.

Vice Chair Lenney remarked he was hesitant to make a change that could disrupt a system that was working well. He said he would vote nay.

Senator Ricks remarked there were some parts of the bill he liked and some that he did not like. He expressed a concern about training and continuing education. He noted some larger companies could take over some of the companies in Idaho, resulting in a loss of local service.

Senator Lakey remarked he was a proponent of free enterprise. He stated the Committee had heard from supporters and opponents and it appeared the rule was in conflict with statute. The bill should be amended or rejected as his first loyalty was to those who lived in Idaho. He would vote nay.

Senator Hartgen stated there were parts of the bill she liked but received comments to vote no.

ROLL CALL VOTE: **Chairman Cook** called for a roll call vote. **Senators Guthrie and Foreman** voted aye. **Senators Lakey, Ricks, Hartgen, Ward-Engelking, Ruchti, Vice Chair Lenney, and Chairman Cook** voted nay. The motion failed.

H 18 **Workers' Compensation** - Amends existing law to remove a sunset clause from a provision that makes psychological injuries suffered by first responders compensable. **President Pro-Tempore Winder** reported this bill removed the sunset clause Idaho Code § 72-451, which was introduced and passed in 2019 as enumerated in 2019 Session Law, Chapter 68, making this statute permanent. Idaho Code § 72-451 identified Post Traumatic Stress Injury (PTSI) as an occupational injury that affected Idaho's first responders (as defined in statute). If a first responder had "clear and convincing" evidence of a psychological injury, the treatment was handled through workers' compensation.

He noted when Idaho Code § 72-451 was amended in 2019, the National Council on Compensation Insurance (NCCI) anticipated an increase to workers' compensation premiums. Since the passage of this legislation, overall base rates for these classes of employees were below the rate set in 2019.

DISCUSSION: In response to a question posed by Vice Chair Lenney about the sunset clause, **President Pro-Tempore Winder** explained at the time the legislation was enacted the thought was to allow enough time to find out the impact of this legislation with the idea the sunset clause would be removed at the end of the trial period.

Senator Hartgen queried how many used this program. **Rob Shoplock**, Professional Firefighters of Idaho, reported there were 67 claims with 31 being accepted and 36 denied.

Senator Foreman remarked he was in support of this bill because in the long run, early PTSI treatment cost the State less.

Senator Ward-Engelking stated she was very supportive of this legislation.

MOTION: **Senator Ward-Engelking** moved to send **H 18** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION: **Senators Lakey, Vice Chair Lenney, and Ruchti** remarked they were very supportive and would vote in support of the bill.

VOICE VOTE: The motion to send **H18** to the floor with a **do pass** recommendation carried by **voice vote**.

Chairman Cook announced due to time constraints, the agenda would be changed in order to hear minutes, Gubernatorial Reappointment Votes, and a Routing Slip (RS).

MINUTES APPROVAL: **Senator Lakey** moved to approve the Minutes of January 31, 2023. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Committee Vote on the Gubernatorial Reappointment of Thomas Kealey, Director, Idaho Department of Commerce.**

MOTION: **Senator Ward-Engelking** moved to send the Gubernatorial Reappointment of Thomas Kealey to the floor with the recommendation he be confirmed. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Committee Vote on the Gubernatorial Reappointment of Dean Cameron, Director, Idaho Department of Insurance.**

MOTION: **Senator Lakey** moved to send the Gubernatorial Reappointment of Dean Cameron to the floor with the recommendation he be confirmed. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

RS 30244 **Relating to the Public Employee Retirement System (PERSI).** **Senator Lakey** reported the purpose of the legislation was to ensure first responders under Idaho Code § 59-1356 were considered for employment in Idaho after retirement under the Rule of 80. They had valuable and important training and expertise. This bill allowed an agency to rehire a retired law enforcement officer or firefighter without them losing retirement benefits. In 2022, PERSI brought forward reemployment legislation stating first responders may be rehired after retirement with a clear separation in employment from their department.

MOTION: **Senator Ward-Engelking** moved to send **RS 30244** to print. **Vice Chair Lenney** seconded the motion. The motion carried by **voice vote**.

Chairman Cook announced the other items on the agenda would be heard at the next meeting.

ADJOURNED: There being no further business at this time, **Chairman Cook** adjourned the meeting at 2:52 p.m.

Senator Cook
Chair

Linda Kambeitz
Secretary