

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 09, 2023

TIME: 1:30 P.M.

PLACE: Room WW54

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

**ABSENT/
EXCUSED:** Senator Lakey

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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 P.M.

RS 30189 **Relating to Electronic Payment Transactions.** **Senator Harris** reported this legislation related to interchange fees (also called swipe fees) charged to merchants on credit and debit card transactions. It excluded State and local sales taxes from the calculation of the amount of an interchange fee for an electronic payment transaction, such as the use of a debit or credit card. It required a payment card network to either deduct the amount of any tax from the calculation of interchange fees on purchases, or rebate the amount of interchange fees imposed on the State or local tax portion of purchases.

Senator Harris noted this legislation had no impact on the General Fund or local units of government. If the State or local governments had instances where a sales tax was charged on an item and paid for with an electronic payment, the fiscal impact would be a positive amount (for example, the Idaho State Liquor Division account would be positively impacted from the savings of sales made in the State-run Idaho State Liquor Stores).

DISCUSSION: **Senator Hartgen** remarked most stores only wanted a debit or a credit card and not a check.

MOTION: **Senator Foreman** moved to send **RS 30189** to print. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 30180 **Relating to Insurance.** **Senator Ruchti**, reported this proposed legislation eliminated the problem of phantom insurance and reduced payments for benefits paid by others. The proposed legislation provided that when a citizen purchased motor vehicle under-insurance coverage, the purchaser received the stated benefit provided on the declaration page. This prevented an insurance company who received a premium for underinsured coverage from taking credit for the benefits paid by another's insurance company. It further limited the benefits recoverable to the purchaser's actual losses or the amount of coverage purchased, whichever was less.

Senator Ruchti noted there was no fiscal impact to the General Fund as this applied to insurance companies who provided motor vehicle insurance policies. Some motor vehicle insurance companies already voluntarily provided this type of coverage, and their premium rates were competitive with companies who did not currently adhere to this policy.

- DISCUSSION:** **Vice Chair Lenney** commented this issue was discussed when the Committee heard the rules. He said he was in support of the proposed legislation.
- MOTION:** **Vice Chair Lenney** moved to send **RS 30180** to print. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.
- RS 30306** **Relating to a Voluntary Employees' Beneficiary Association Trust.** **Senator Okuniewicz** reported this legislation would convert the Public Employee Retirement System of Idaho (PERSI) Sick Leave account to a Voluntary Employees' Beneficiary Association (VEBA) in order to expand the number and variety of tax-exempt items that members could purchase with their funds.
- He noted it was anticipated there would be little or no impact to the General Fund if the PERSI Retirement Board was retained by the newly-created VEBA. Benefit management remained under the control of the current retirement system. There could be a positive fiscal impact to the State if the VEBA retained independent consultation and third-party administration of the program.
- DISCUSSION:** **Senator Hartgen** asked if he worked with the PERSI Board. **Senator Okuniewicz** stated he had spoken with Don Drum, Executive Director, PERSI, related to this proposed legislation.
- MOTION:** **Vice Chair Lenney** moved to send **RS 30306** to print. **Senator Hartgen** seconded the motion.
- DISCUSSION:** **Senator Ward-Engelking** noted she wanted to have Mr. Drum's input when this legislation had a hearing.
- VOICE VOTE:** The motion to send **RS 30306** to print carried by **voice vote**. **Senator Okuniewicz** stated that he had a potential conflict of interest pursuant to Rule 39 (H).
- MINUTES APPROVAL:** **Senator Foreman** moved to approve the Minutes of February 2, 2023. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.
- H 16** **Division of Human Resources** - Amends existing law to provide for the hiring of employees under approved apprenticeship programs. **Michelle Peugh**, Human Resources Policy and Programs Manager, Idaho Division of Human Resources (IDHR), stated the purpose of this legislation was to allow for flexibility and clarification within established temporary employment practices. Currently, temporary employees were limited to working 1,385 hours in a 12-month period. This limitation restricted State agencies who wanted to hire youth apprentices, as the apprentice would not be employed long enough to complete work-based learning. Language would be added in Idaho Code § 67-5302 to waive the 1,385-hour limit for employees hired specifically as apprentices under an approved apprenticeship program. Hiring youth apprentices would be another tool agency heads could utilize to recruit and retain State employees more effectively.
- Ms. Peugh** reported this legislation would have no impact on the State's General Fund or any dedicated or federal fund. Any agency wanting to employ an apprentice must demonstrate they had sufficient existing funding to cover expenses, thus ensuring no requests for additional funding.
- MOTION:** **Senator Ward-Engelking** moved to send **H 16** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 17 **State Personnel System** - Amends existing law to revise the definition of "overtime work." **Michelle Peugh**, said the purpose of this legislation was to allow for flexibility and clarification related to overtime calculation for certain employees. Typically, time worked in excess of 40 hours per workweek constituted overtime. The proposed language added another option for overtime calculation within established wage and hour laws. **Ms. Peugh** stated certain employees who met federal exemption requirements, upon designation from the administrator, would have overtime calculated for time worked in excess of 80 hours in a period of 14 consecutive days. The addition allowed for more flexibility in scheduling employees who worked irregular shifts.

Ms. Peugh indicated this legislation had no impact on the State's General Fund or any dedicated or federal fund. Employees exempt from overtime under the Fair Labor Standards Act (FLSA) did not receive cash for overtime.

DISCUSSION: **Senator Ricks** and **Ms. Peugh** discussed scenarios and exceptions for overtime for nurses and other personnel. **Ms. Peugh** noted language was added to require pre-approval of overtime.

MOTION: **Senator Guthrie** moved to send **H 17** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 13 **Human Resources Division** - Amends existing law to remove obsolete language and to clarify language regarding certain personnel practices. **Michelle Peugh**, stated the purpose of this legislation was to update Title 67, Chapter 53 and Title 59 Chapter 16 related to the personnel system by removing outdated language and practices and to provide clarification to assist with IDHR modernization. The changes helped to ensure best practice standards were applied in the development of the statewide Enterprise Resource Planning (ERP) system.

Ms. Peugh remarked the legislation had no impact on the State's General Fund or any dedicated or federal fund because the change was in verbiage only.

MOTION: **Senator Ward-Engelking** moved to send **H 13** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 15 **Human Resources** - Amends existing law to provide for correct references to the Idaho Division of Human Resources (IDHR), to allow for pay increases, and to remove a provision regarding hearings before the IDHR. **Michelle Peugh**, stated the purpose of this legislation was to update the agency name to the "Division of Human Resources" from the previous agency name of "Personnel Commission" outlined in Idaho Code § 67-3519. In addition, the statement "pay or" would be added before "pay grade" in order to match current practice. This statute addressed employee positions and information related to classifications and pay.

Ms. Peugh pointed out this legislation had no impact on the State's General Fund or any dedicated or federal fund because the change was in verbiage only.

DISCUSSION: **Vice Chair Lenney** pointed out that on the last page of the bill, beginning with line 3, there was an entire paragraph stricken. It sounded like more than a change in verbiage. **Ms. Peugh** noted this verbiage was being taken out of all Code due to the formation of an administrative hearing board.

Senator Ricks remarked that typically when there was a name change, there was a cost. He asked if there were going to be some costs to the IDHR. **Ms. Peugh** reiterated the agency was already the IDHR. Prior to now they were the Idaho Personnel Commission (IPC). She stated the IPC was a separate division that conducted hearings for employees when they filed a grievance or had concerns.

MOTION: **Senator Guthrie** moved to send **H 15** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1019 **Unemployment Insurance** - Amends existing law to provide unemployment insurance benefits to victims of domestic violence and spouses of transferred military members. **Jani Revier**, Director, Idaho Department of Labor (IDOL), gave a brief overview of how the unemployment insurance program worked.

She stated this legislation would allow unemployment insurance benefits to individuals who had to leave their employment due to being a victim of domestic violence or due to their military spouse being transferred. She noted a variety of reasons why an employee left a job. The unemployed worker was required to provide proof of the reason for leaving a job.

Ms. Revier noted the legislation had no impact on the State's General Fund or any dedicated or federal fund because no General Fund dollars were used to pay unemployment benefits or administer the collection of unemployment insurance taxes. The only fiscal impact was on Idaho's Unemployment Insurance Trust Fund (UITF), which was the repository for unemployment insurance taxes paid by Idaho employers and served as the source of regular unemployment insurance benefits paid to eligible unemployed workers. If enacted, the impact on the UITF would be \$200,000 annually. Idaho's weekly benefit amount increased a rate of 3.3 percent on average per year, so payments from the UITF would likely increase an equal amount per year. Due to current inflation, the weekly benefit amount was anticipated to increase 6.6 percent in FY 2023 before leveling out to traditional increases. The UITF was continuously appropriated.

DISCUSSION: **Vice Chair Lenney** asked if any other states were providing this exemption. **Ms. Revier** noted most states had this exemption.

Senator Ruchti queried if the obligations of unemployed workers were the same in these instances. **Ms. Revier** stated the requirements were the same.

TESTIMONY: **Heather Cunningham**, Director, Idaho Council on Domestic Violence and Victim Assistance, testified in support of the bill She noted this bill tried to address the problem and put victim safety first.

Jenn Beazer submitted written testimony in support of the bill (Attachment 1). She noted she had been a victim of domestic violence and wished this type of help had been available to her when she endured extreme domestic violence.

DISCUSSION: **Senator Guthrie** asked how was domestic violence documented in order for a victim to collect unemployment. **Ms. Cunningham** stated proof from a police report, a doctor's note, or other proof was required. **Ms. Revier** indicated this was true.

Vice Chair Lenney asked if all three documents were needed or would the IDOL accept one. **Ms. Revier** replied only one document was required. **Vice Chair Lenney** queried what was in place to prevent fraud. **Ms. Cunningham** stated that in Idaho statute, a medical provider had an obligation to report to law enforcement if anyone sought medical attention for domestic violence.

Senator Guthrie asked if the IDOL was obligated to notify authorities as to who was causing the abuse. **Ms. Revier** stated the abuse had to be already proven with documentation before the IDOL would handle an unemployment claim. Documentation had to be provided.

MOTION: **Senator Ward-Engelking** moved to send **S 1019** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. **Senator Foreman** asked to be recorded as voting nay.

PRESENTATION: **Idaho Department of Labor (IDOL)**. **Jani Revier**, gave an overview of the IDOL with a PowerPoint presentation (Attachment 2). She pointed out the Determination Division included unemployment insurance and Disability Determination Services (DDS). She noted the Wage and Hour program was included in the DDS and was responsible for administering Idaho's minimum wage law, wage payment law, and farm labor contractor licensing law, and was the only program that received any General Fund appropriation.

Ms. Revier stated claimants in Idaho were eligible for \$72 to \$532 per week, for 10 to 21 weeks. The maximum number of weeks was based on the unemployment rate calculated each quarter. The current maximum was based on the November unemployment rate of 3.0 percent. When the unemployment rate increased, the maximum number of weeks increased to 26 weeks. Unemployment insurance benefits were funded through a tax on employers, collected by the IDOL and placed in a federal trust fund. Money from that fund was only used for unemployment benefits and for no other purpose. Unemployment insurance assisted individuals who lost a job or had a reduction in hours. This program did not replace wages so individuals who worked full-time with reduced pay were not eligible. Individuals must be monetarily and personally eligible in order to qualify. She explained the two types of unemployment insurance overpayments and the consequences for both.

Ms. Revier outlined the process for a claimant to file online. She noted if a claimant was found ineligible, they received a determination which provided appeal rights. All interested parties were able to file an appeal to the Appeals Bureau, then to the Industrial Commission, and finally to the Idaho Supreme Court.

She outlined the Workforce and Commissions Bureau responsibilities. One of the Workforce grants the IDOL received was funding to expand registered apprenticeships in the State. The number of apprentices in Idaho doubled over the last year. She remarked the Idaho Human Rights Commission worked to prevent and remedy illegal discrimination in employment, housing, education, and places of public accommodation.

Ms. Revier stated the Idaho Disability Determination Services, authorized under federal code and funded by the Social Security Administration, processed disability claims by determining whether individuals applying for Social Security disability benefits met the criteria for medical severity and ensured fair and timely consideration of those individuals.

She noted another commission was the Governor's Serve Idaho Commission on Service and Volunteerism (Commission). The Commission promoted collaborative efforts among the public and private sectors to advance community service programs and activities throughout the State.

Ms. Revier outlined the activities of the Administrative Services Division, which included Accounting, Information Technology, Human Resources, Facilities, and Communications and Research. She stated the IDOL had nine offices located across the State with additional mobile office hours in 50 communities. A variety of services were offered to connect job seekers with employment opportunities. Some of the services included resume assistance, interview skills training, and information on available jobs in the area. There were programs focused on assisting out-of-work veterans, connecting youth to the workforce, and linking workers to necessary training.

Ms. Revier reported the Idaho Human Rights Commission (IHRC) worked to prevent and remedy illegal discrimination in employment, housing, education, and places of public accommodation as defined in Idaho Code. The IHRC also handled complaints under the federal employment law deferred by the Equal Employment Opportunity Commission (EEOC). The staff investigated charges of discrimination and retaliation. They also prepared summaries for EEOC review and determination.

Ms. Revier noted Idaho had made a remarkable recovery in the job market. Much of the nation was slower to recover.

DISCUSSION: **Senator Foreman** asked for an explanation of why there were just over 48,000 people who were unemployed. **Ms. Revier** indicated the unemployment rate was exacerbated by the pandemic. Baby boomers, who were the largest population, were retiring. The economy had not grown to replace those who retired. There were other contributing factors, such as a shortage of child care facilities. Many of those facilities closed during the pandemic. Some were concerned about health and safety, and removed themselves from the labor market. Since the pandemic, the labor market participation was lower.

Senator Guthrie asked about overpayments and the idea the IDOL did not always recover those monies. **Ms. Revier** noted the IDOL could collect up to ten years. The exception was when someone died or moved out-of-state, or an individual no longer had wages to garnish. A vast majority of money was collected over time. **Senator Guthrie** asked about the pandemic money and did the federal government expect the IDOL to collect their money as well. **Ms. Revier** stated the federal government expected the IDOL to collect their money as well as for the State. She noted the IDOL worked to recover those overpayments.

ADJOURNED: There being no further business at this time, **Chairman Cook** adjourned the meeting at 2:41 p.m.

Senator Cook
Chair

Linda Kambeitz
Secretary