

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 28, 2023

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Guthrie

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 1:32 p.m.

H 116 **CONSUMER PROTECTION - Amends existing law to revise provisions regarding automatic subscription renewal cancellation. Senator VanOrden** stated this bill was an update to Idaho Code § 48-603G, which was effective July 1, 2022. This ensured that consumers could easily cancel online subscriptions that would otherwise be automatically renewed. The law was not originally intended to capture companies regulated by the Public Utilities Commission (PUC) or the Federal Communications Commission (FCC). This update clarified that those companies were exempt from the law. This bill also clarified how companies offered citizens the ability to cancel a subscription.

Senator VanOrden introduced Kate Haas. **Ms. Haas**, T-Mobile and TechNet, went over the provisions in the bill. She stated this bill needed to be sent to the Fourteenth Order for amendment.

DISCUSSION: **Senator Ricks** referred to page 1, line 33 of the bill and queried what would a termination email look like. **Ms. Haas** stated there was a fillable template email that was easy for the customer to use. **Senator Ricks** asked if the email could be printed and mailed. **Ms. Haas** noted this was intended to be online. A company could not force a customer to print and mail a cancellation. **Senator Ricks** gave an example of a gym membership. In order to cancel with some gyms, a certified return receipt letter had to be sent to an out-of-state vender via mail. **Ms. Haas** stated this bill applied to automatic renewal subscriptions.

Senator VanOrden asked to have this bill sent to the amending order in order to add insurance companies. She noted after having worked with the insurance companies, the language was already drafted.

MOTION: **Senator Ward-Engelking** moved to send **H 116** to the **14th Order** for possible amendment. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hartgen** moved to approve the Minutes of February 16, 2023. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Cook passed the gavel to Vice Chair Lenney.

**DOCKET NO.
24-3910-2201**

Rules of the Idaho Electrical Board (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule - Electrical Code Rehearing. **Tim Frost**, Deputy Director, Idaho Division of Occupational and Professional Licenses (IDOPL), noted this Docket was held at the Call of the Chair until further information could be obtained. He gave a brief overview of what occurred at the last Committee meeting. **Mr. Frost** pointed out the Electrical Board (Board) acted upon recommendations from industry related to solar installations and inspections. He said many amendments were unchanged. Some of the amendments were created by the Board. **Mr. Frost** remarked that whenever there was a new code cycle, there was a lot of new information. There were three pages of deletions by the Board in keeping with the Idaho approach. There was no way possible to catch every problem, but a learning process occurred through implementation. In the past, the Board had historically reopened issues that surfaced during implementation of the codes.

DISCUSSION:

Senator Lakey remarked he wanted more information in order to coordinate with colleagues in the House. The House could have questions and issues to be approved and rejected. **Senator Lakey** stated he saw several issues with the modification of tables related to branch circuit feeders. He asked what about modernization or were industry standards reflected. **Mr. Frost** stated he could not answer the question about the branch circuit feeder, but noted there were some in the audience who could possibly have an answer. He said the National Electrical Code (NEC) was separate from the International Electrical Code (IEC). There were improved new provisions for lighting options and loads, which could decrease the distribution of lights in a system.

Senator Lakey asked for a definition of Ground Fault Circuit Interrupter (GFCI). **Mr. Frost** stated these types of outlets were found in kitchens, bathrooms, and anywhere there was water. He noted there were arc fault scenarios that could occur in those areas. The Board kept the amendment to the Code, but amended the requirements in residential settings, except for bathrooms.

Senator Lakey asked about the virtual inspection fee and was there a basis for that fee. **Mr. Frost** answered the statutory details did not define an inspection, however, an inspection was required in statute. A low-risk inspection could be verified by a video or picture scenario. He stated underground direct burial of conduit and electrical outlets were accepted forms of virtual inspection. In response to a question posed by Senator Lakey, **Mr. Frost** stated the virtual cost was lowered to \$45. There was no defined list for virtual inspections. He said the Board was experimenting and lowered costs in order to expedite inspections.

Senator Lakey pointed out because the House held this docket in committee, he asked to defer the consideration of this docket to a future date.

Senator Ward-Engelking queried that during the meetings and discussions with the Board, did the electrical journeymen have input. **Mr. Frost** stated the Board held several listening sessions throughout the State gathering input from the stakeholders. The Board did not change the ratio of journeymen.

Vice Chair Lenney asked for the history on this docket and was it ever rejected. **Mr. Frost** gave a brief synopsis of the docket, noting supervision had always been in place in the State of Idaho. The ratio of journeymen to apprentices had always been 2:1. This Committee had never rejected that ratio. **Vice Chair Lenney** queried if the Board had authority to adopt rules even if they had been rejected by the Legislature. **Mr. Frost** noted the Board could modify the rules. He said the Board could establish a registration fee or other fees. There was broader statutory authority and more specific rulemaking authority surrounding apprenticeship. **Vice Chair Lenney** asked how other states approached this type of rulemaking.

Mr. Frost stated it varied from state-to-state. Each state took an individualistic approach with different ratios. Some states adopted rules by municipality.

Senator Ruchti remarked the ratio was important and asked what efforts had been made for public hearings on this issue and if there was any opposition to the current ratios. **Mr. Frost** stated the State of Idaho began streamlining the rules two years ahead of time. Electricians were present for negotiations where ratio requirements were discussed. Feedback was overwhelming at the commercial level to keep the ratio. **Mr. Frost** noted there were some who disagreed at the residential level. Five individuals thought ratios should have been expanded or removed. **Senator Ruchti** asked if the feedback was the same in 2022 as in 2021. **Mr. Frost** noted it was the same.

TESTIMONY: **Kelly Lamp**, National Contractors, testified in support of the docket. He stated he served as Chairman-elect for a collaborative group, but was not a voting member. He also was a member of a co-panel of six that dealt with the NEC. Some changes were deleted at the request of the electricians.

DISCUSSION: **Senator Ricks** queried how much leeway did the State have to adjust the NEC. **Mr. Lamp** replied the State of Idaho had authority to add or delete anything in the NEC. **Senator Ricks** asked if there was an abbreviated version accessible to anyone. **Mr. Lamp** noted the NEC was copyrighted with no online or written access without paying a fee.

Senator Ruchti asked Mr. Lamp if he had any concerns about the ratios. **Mr. Lamp** indicated he ran an apprenticeship program and that electricity was dangerous and could kill someone. He explained an apprentice who had four years on the job had more experience than someone who had just started their first year and were much more likely to get hurt. He stated the ratio helped pass on good knowledge.

Senator Lakey inquired if there was a central document that showed the differences between the changes. **Mr. Lamp** stated there were organizations that published those types of books, but they were 300 pages long. He noted he had a spreadsheet that he would share with the Committee via email.

TESTIMONY: **Jason Hudson**, American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), testified in support of the docket. He stated the Board did a thorough job extensively considering the topic. There was almost no demand from industry to change the ratios. He stated inspections were required at the end of a job. Inspectors were heavily overloaded with the building boom.

Jeremy Redman, Journeyman Electrician, testified in support of the Docket. He noted he was part of the rulemaking process and gave industry input. He said the Code was written by the National Fire Prevention Association to prevent fires. Ratios were a hot topic. He said the rules allowed for someone not to attend training, but education was taught on the job site. He remarked adequate supervision helped make everyone safe.

DISCUSSION: **Chairman Cook** asked if everyone was in agreement at the end of the meetings. **Mr. Redman** stated everyone came to a consensus. **Chairman Cook** asked for Mr. Redman's thoughts on this legislation for those out-of-state. **Mr. Redman** remarked all electricians should have an education and that knowledge gained in the classroom was beneficial.

MOTION: **Senator Lakey** moved to hold **Docket No. 24-3910-2201** in Committee, subject to the Call of the Chair. **Senator Ricks** seconded the motion. The motion carried by **voice vote**. **Senators Hartgen** and **Ruchti** asked to be recorded as voting nay.

PASSED THE GAVEL: Vice Chair Lenney passed the gavel back to Chairman Cook.

TAXES - Adds to existing law to establish provisions regarding the exclusion of certain taxes and fees from any electronic payment transaction interchange fee. **Senator Harris** stated 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 indicated there was no negative impact on the General Fund or local units of government. If the State or local governments had instances where sales tax was charged on an item, it was 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).

TESTIMONY: **Charlie Jones**, Stinker Stores, testified in support of the bill. He stated he operated 65 stores throughout Idaho and employed 650 workers. He stated fees charged by credit card companies was the second largest expense he had besides payroll. He noted fees were a monopoly. This bill prohibited banks from charging swipe fees on taxes. He said charging Stinker a fee over \$50,000 just to collect sales tax on credit cards was unfair.

Melinda Merrill, Northwest Grocery Association, testified in support of the bill. She stated retailers paid an interchange fee on the whole product and on the amount of sales tax. She asked that a swipe fee not be charged on sales tax. Fees were high and a bit of a monopoly.

DISCUSSION: **Senator Foreman** queried if this bill was asking credit card companies to process a purchase, but not on the tax. **Ms. Merrill** stated the fee was charged on the purchase of the product and also on the taxes. Retailers were using their systems and time to be able to hand the sales tax over to the State and then paid a fee on top of that. **Senator Foreman** stated a business person provided a service and honored the obligation to process the whole transaction. **Ms. Merrill** said there were some transactions where a fee was not charged on sales tax. There was no profit to the retailer, as the taxes were going back to the taxpayers. **Senator Foreman** queried if it was not true some merchants passed costs on to consumers. **Ms. Merrill** stated that was true, however, retailers upgraded systems to cover fraud, which costs money with no reduction in fees. Retailers tried to keep costs low.

Senator Lakey asked how many other states had this kind of legislation. **Ms. Merrill** indicated no other states had this type of legislation, but there were five other states in the process of introducing similar legislation.

Senator Ruchti queried if there were different companies who charged different fees and why was there not competition. **Ms. Merrill** remarked Congress passed a law to allow competitors on debit card transactions, but it did not apply to credit card transactions. There was no competition and no options.

TESTIMONY: **Trent Wright**, President and Chief Executive Officer, Idaho Banker's Association, testified in opposition. He stated the Legislature must drop the idea sales tax had to be eliminated in the swipe fees. He noted the banker's encouraged a vendor allowance that had worked in other states. He said not charging a fee on sales tax did not and would not work. For that to happen two transactions would be required by banks. He stated six other bills were being considered, but not in six other states. He stated this legislation should be held in Committee.

DISCUSSION: **Senator Ricks** inquired if the cost was borne by the banks and credit unions or by a processor, such as VISA and Mastercard. **Mr. Wright** stated the cost was borne by both. He stated to rewrite code would cost hundreds of millions of dollars and an expensive endeavor moving forward. The average amount a retailer would have to spend was \$1 million. **Senator Ricks** stated he was sceptical about actual costs. He stated in the first quarter of this year, VISA had over \$4 billion in profit returned to shareholders. There was a lot of money involved on the other end of this proposal. He had concerns about local retailers and processing fees. He encouraged the bankers to consider this proposed legislation to try to fix this issue.

Senator Foreman remarked the consumer ultimately paid and costs would be higher. **Mr. Wright** was in agreement.

Senator Ruchti noted he was charged a convenience fee to pay his taxes and was surprised at how much the fees were. He wanted to find out what other options were available.

Chairman Cook stated the Committee was out of time and the bill would have a hearing on another day.

ADJOURNED: There being no further business at this time, **Chairman Cook** adjourned the meeting at 3:01 p.m.

Senator Cook
Chair

Linda Kambeitz
Secretary