

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 09, 2023

TIME: 1:00 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 meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:00 p.m.

MINUTES APPROVAL: **Vice Chair Lenney** moved to approve the Minutes of February 28, 2023. **Senator Foreman** 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 - Rehearing. Tim Frost**, Deputy Director, Idaho Division of Occupational and Professional Licenses (IDOPL), was available for questions.

DISCUSSION: **Senator Lakey** commented there was a great effort to put the electrical code in State statute. He noted he had received a spreadsheet for the 2020 Electrical Code. Ratio was an issue and he wanted to see that part in Idaho Code. He stated he wanted to further examine the 2020 Electrical Code. He said he wanted to see some potential movement on the ratios. He also said other trades did not require continuing education because it was all about practice. He said his preference was not to move to the 2020 Electrical Code, to remove ratios and deal with that in code, and remove continuing education.

Chairman Cook noted technology was always changing and continuing education helped workers stay up-to-date and to be able to compete. He thought continuing education was important for electricians.

MOTION: **Senator Lakey** moved to approve **Docket No. 24-3910-2201** with the exception of subsections 100.05 Continuing Education; 200.03.c and 200.03.c.i, Journeyman-to-Apprentice Ratio; and Section 600, the adoption of the 2020 Electrical Code. **Senator Ricks** seconded the motion.

DISCUSSION: **Senator Guthrie** stated the issue of the journeyman-apprentice ratio had been going on too long.

SUBSTITUTE MOTION: **Senator Guthrie** moved to approve **Docket No. 24-3910-2201**, and to move Section 600 into the 2020 Code. **Senator Hartgen** seconded the motion.

DISCUSSION: **Senator Lakey** noted he understood continuing education gave some consistency and the Legislature had an option for an emergency temporary rule.

Senator Guthrie expressed a concern with the electrical docket. This rule had been negotiated for some time and he did not want a position compromised until the statute had reached consensus. He supported Section 600 being removed.

Senator Ricks asked for a summary as to what was being removed and what the Committee was voting on.

Senator Lakey summarized that the motion was to approve the docket, but to remove continuing education, the ratio, and the adoption of the 2020 Electrical Code. He noted Senator Guthrie's motion was to only remove the Electrical Code.

**ROLL CALL
VOTE ON THE
SUBSTITUTE
MOTION:**

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

**ROLL CALL
VOTE ON
ORIGINAL
MOTION:**

Senators Lakey, Ricks, Foreman, Vice Chair Lenney, and **Chairman Cook** voted aye. **Senators Guthrie, Hartgen, Ward-Engeling,** and **Ruchti** voted nay. The motion carried.

**PASSED THE
GAVEL:**

Vice Chairman Lenney passed the gavel back to Chairman Cook.

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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** gave a quick overview of the bill. He stated this bill was informational only and noted no motions would be entertained. He yielded his time to Pam Eaton, President and Chief Executive Officer (CEO), Idaho Retailers and Idaho Lodgers Association. **Ms. Eaton** stated the Northwest Grocery Association, Idaho Petroleum, and the National Federation of Independent Business (NFIB) Idaho, were all in support of this bill. She remarked VISA and MasterCard controlled over 80 percent of the market. Banks should compete on swipe fees as they did on other fees and services they provided, but there was no competition. Banks instead charged rates not subject to normal competitive market pressures. In 2021 U.S. merchants paid nearly \$140 billion in swipe fees, which was an increase of 25 percent from the previous year. The market was broken and hurt consumers, with retail profit margins on 2.5 percent swipe fees, an average of more than 2.2 percent. Retailers could not afford to absorb all of the costs and fees, and had no option but to increase the price of consumer goods. The swipe fee charges was a nationwide issue. States had a unique opportunity to protect businesses on swipe fee charges on funds they did not keep.

Ms. Eaton noted a remark had been made that the current system could not handle the change. However, merchants passed three data fields every time something was swiped. The purchase amount, the tax amount, and the total to the processors, which sent data to card networks. In turn, the card network determined the swipe fee rates. Banks received settlement of funds, including those swipe fees from the network and the processor. In the event the retailer was unable to separate the sales tax from the total transaction, the bill included a rebate or a refund.

Ms. Eaton said another issue was that credit card companies needed swipe fees to cover fraudulent charges. Retailers paid for fraud multiple times. The \$140

billion nationwide that retailers paid in swipe fees in 2021 far exceeded what was actually needed to cover the fraud losses. The Federal Reserve reported that merchants covered 56.3 percent of debit card fraud. Card issuing banks only covered 34.4 percent. The Federal Reserve reported that the merchant share of fraud on dual message debit cards was more than 60 percent. Retailers often paid for fraud in the form of chargebacks. That meant the money the merchant was supposed to receive on the transaction was taken away for up to 90 days after a transaction had been approved. The bank could reverse the approval and charge back the funds from the merchant. The retailer not only lost the funds that the bank took, but the product that was fraudulently purchased. Many of the merchants paid networks to cover mandated fraud solutions. Card companies required merchants to invest in costly equipment to prevent fraud.

Ms. Eaton said another question that was posed was financial institutions needed to recover swipe fees on products and the taxes paid on the product. The financial institutions were well-compensated for the service provided to purchase a product with a payment card. Recovering the swipe fees on the taxes was just an additional windfall to require retailers to reach into their own pockets to pay the difference in order to comply with State law just was not fair. This would be a common-sense solution that was workable for all parties.

DISCUSSION:

Vice Chair Lenney asked if there was a precedent in other states. **Ms. Eaton** reported no states, with the exception of two, had passed this type of legislation to date. She stated she believed there were seven states to date that had introduced similar legislation and many more states were looking into this type of legislation. **Vice Chair Lenney** queried what were the two states that passed this legislation and **Ms. Eaton** stated North Dakota and Georgia.

Senator Ruchti asked if the swipe fee applied to credit cards and debit cards. **Ms. Eaton** answered in the affirmative. **Senator Ruchti** and **Ms. Eaton** discussed interest charged on credit card purchases and swipe fees charged by merchants.

Senator Foreman remarked the issue was the fee and the benefits for either the merchant or the consumer. They discussed whether or not the State of Idaho should pay to cover a part of the tax and reimburse the merchant for the swipe fee. **Ms. Eaton** noted 21 states offered a vendor allowance to collect a sales tax, but did not cover the swipe fees. She stated the charges were not fair and did not benefit anyone. **Senator Foreman** stated the credit card companies were a business that provided a service and someone had to pay. He stated the credit card company provided the whole service and should be paid for the work. He said the merchant could pass the costs on to the consumer. **Ms. Eaton** commented 76 percent of consumer transactions were credit or debit. The two credit card companies were a monopoly. Their fees had skyrocketed and brought in more money than what it cost to offer this service. There was no competition in this field.

Senator Ruchti commented he was wrestling with interest rates. He could envision a transaction fee, but charges were based on the amount purchased and not on the transaction.

GUBERNATORIAL REAPPOINTMENT:

Gubernatorial Reappointment of Park Price, Public Employee Retirement System of Idaho (PERSI) Board, of Idaho Falls, Idaho, for a term commencing July 1, 2022 and to expire July 1, 2027. **Mr. Price** gave a brief overview of his background.

DISCUSSION: **Senator Ruchti** commented he was happy to see Mr. Price before the Committee.

Senator Guthrie noted he had known Mr. Price for a long time and that he had common sense and a great approach to issues.

Chairman Cook asked Mr. Price what was his biggest challenge on the PERSI Board. **Mr. Price** stated the markets and the change in benefits.

TESTIMONY: **Senator Ricks** asked to introduce constituent, Jonas Thompson, to the Committee. **Mr. Thompson** gave a brief overview of his background. He said he was a senior at Madison High School in Rexburg. He was visiting with his parents and always had an interest in politics. He noted he was in the Future Farmers of America (FFA) and competed in parliamentary procedure, where he just took first place. **Senator Ricks** thanked him for being here and to want to be involved.

Chairman Cook announced the Gubernatorial Reappointment vote would take place at the next meeting.

ADJOURNED: There being no further business at this time, **Chairman Cook** adjourned the meeting at 1:45 p.m.

Senator Cook
Chair

Linda Kambeitz
Secretary