

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, January 25, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Cook, Senators Lakey, Guthrie, Ricks, Foreman, Hartgen, Lenney, 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 1:30 p.m.

DOCKET NO. 18-0102-2301 **Schedule of Fees, Licenses, and Miscellaneous Charges (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule, p. 158.** **Dean Cameron**, Director, Idaho Department of Insurance (DOI), introduced his staff and yielded his time to Deputy Director Wes Trexler. **Mr. Trexler** noted the purpose of this rule was to provide amounts to be collected for insurance fees, licenses, and miscellaneous charges. He stated the substantive change was to reduce one registration fee and to add a registration fee for Pharmacy Benefit Managers (PBM's). Other proposed changes were to simplify, clarify, and reduce verbiage. **Mr. Trexler** remarked one existing registration fee was reduced from \$100 to \$40, and one registration fee of \$300 was added for PBM's. He explained registration began with the DOI in 2021. There was no fiscal impact to the General Fund since the amount was less than \$10,000.

DISCUSSION: **Senator Lakey** queried if the Annual Continuation Fee was not paid what happened. **Mr. Trexler** noted failure to pay the fee by March 1 each year resulted in the expiration of the insurer's or other entity's authority to conduct business in Idaho. He stated fees could be paid after March 1 and the late fee was assessed at \$25 per day.

Chairman Cook pointed out there was a typographical error on page 164, .021 Insurers Fee, .01 and stated the wording should say "than" rather than "then." **Mr. Trexler** remarked the DOI would correct that error. **Chairman Cook** asked how much money was in the account for these fees. **Mr. Trexler** clarified the DOI was a funded agency and expenses were paid by collected fees, and that allowed the DOI to operate. He indicated the funds were reverted to the General Fund. **Chairman Cook** referred to H 386 of 2021 relating to PBM's, and inquired how many PBM's were registered. **Mr. Trexler** indicated there were 51 PBM's registered in the State of Idaho.

In response to a remark made by **Chairman Cook** about the typographical error, **Senator Lakey** stated the error was a technical change and not anything substantive where the Committee was not approving a section or significantly changing language.

MOTION: **Senator Lakey** moved to approve **Docket No. 18-0102-2301** with the correction of "than" rather than "then." **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
18-0404-2301**

The Managed Care Reform Act Rule (MCRA) (ZBR Chapter Rewrite) - Proposed Rule, p. 169. **Shannon Hohl**, Market Oversight Bureau Chief, DOI, stated the rule implemented the MCRA by defining and establishing operating procedures. This rulemaking was to simplify, clarify, and reduce verbiage. This rule relied on the statute rather than repeating statutory requirements. There were no changes to the pending rule and it was adopted as originally proposed.

DISCUSSION:

Senator Lakey expressed a concern about removing the maximum of \$1 million from the rule. He questioned if removing the maximum changed the contribution rates for participants. He referred to the chart on page 174. **Ms. Hohl** maintained it was a removal of duplicative language. **Senator Lakey** mentioned he was not sure of the language. He noted a 50 percent deposit of the organization's capital funds of \$1 million was removed, but an amount not less than \$200,000 to \$2 million was specified. **Mr. Trexler** referred to the table on page 174 and noted the maximum/minimum was \$2 million and stated that in no event the minimum prescribed deposit was reduced. He stated the phrasing was removed up to a maximum of \$1 million because the maximum was \$2 million. **Senator Lakey** asked for reassurance that the \$1 million was not going to change.

Senator Lakey and **Ms. Hohl** discussed the language in the rule relating to the minimum and maximum deposits. **Senator Lakey** cited the Managed Care Organization's (MCO's) minimum statutory deposit was calculated as 50 percent. He noted this was the minimum deposit or 50 percent of the amount of the MCO's capital funds as outlined in the chart. He stated the minimum was 50 percent of the \$2 million or the \$1.5 or the \$1 million, but not less than \$200,000. The maximum amount of \$1 million was removed, but there was a minimum and no maximum. **Senator Lakey** remarked he did not see where that corresponded to somewhere else in the rule.

TESTIMONY:

Wes Trexler, Deputy Director, DOI, referred to the table on page 173 and noted the MCO's minimum statutory maximum deposit was calculated at 50 percent of the amounts. He stated that was the phrasing Senator Lakey was referring to and up to a maximum of \$1 million was removed. The DOI felt this statement was redundant because the maximum/minimum was \$2 million and 50 percent of that amount was \$1 million. He clarified the maximum of \$1 million would not be exceeded.

DISCUSSION:

Chairman Cook inquired if the maximum still applied if the capital fund was \$3,000.

TESTIMONY:

Eric Fletcher, Company Activities Bureau Chief, DOI, reported Idaho Code § 41-313 established minimum and maximum deposits for all types of insurers. What was stricken was redundant. The table was built up to the standard minimum that all other insurers had to meet.

DISCUSSION:

Senator Guthrie commented he worried about these rules because there was an obsession about cutting words, sections, and chapters, forcing people to look at statute to find something that was more easily accessible in the rule.

Chairman Cook stated this rule would be held until more information was received.

**DOCKET NO.
18-0408-2301**

Individual and Group Supplementary Disability Insurance Minimum Standards Rule (ZBR Chapter Rewrite) - Proposed Rule, p. 177. **Shannon Hohl**, Market Oversight Bureau Chief, DOI, noted the purpose of this chapter was to implement Idaho Code, QTitle 41, Chapters 21, 22, and 42, to standardize and simplify the terms and coverages of individual and group supplementary disability insurance. Some examples included disability income protection coverage, specified disease plans (such as policies to cover costs related to cancer), as well as accident only policies to cover costs related to accidents. Changes to language were instituted in the proposed rule in response to comments received from interested parties. Some of these changes removed phrases referring to braces, crutches, and wheelchairs and replaced that with the term "durable medical equipment." Licensed practical nurse or licensed vocational nurse was replaced as "nurse" licensed by the appropriate entity.

Ms. Hohl stated the text of the pending rule was amended in accordance with Idaho Code § 67-5227. Only those sections that had changes that differed from the proposed text were printed. She noted another change was the benefit period for disability insurance protection coverage. The number of months was reduced from six months to three months as the minimum for the products. This helped to bridge the gap for those who were between jobs or in treatment. There was no impact to the General Fund since the amount was less than \$10,000.

DISCUSSION:

Senator Lakey referred to page 203 and the phrase "unfair exclusions." He noted he was concerned with using the word "unfair." He stated he did not like government deciding what was unfair to someone in a particular case. He suggested the use of the existing word "mislead" instead of "unfair." **Ms. Hohl** noted the DOI used the term "unfair" throughout the statute. The statute expected the DOI to make those determinations. The DOI considered the statute was consistent with that approach. **Ms. Hohl** remarked in 2019 there was some language about the word "unfair" in this rule that was removed because Chapter 13 of the statute was relied upon. **Senator Lakey** remarked his preference was not to approve that aspect of the docket.

Senator Ruchti asked for an explanation of the code section.

TESTIMONY:

Wes Trexler, Deputy Director, DOI, explained this statute dealt with unfair trade practices, along with some other aspects. In several sections of that chapter, the topic of "unfair" was addressed. He pointed out the statute outlined the determination of "unfair" to be at the discretion of the DOI. He cited Idaho Code § 41-1813, Grounds for Disapproval, and noted this law empowered the Director of the DOI to disapprove insurance contracts that met certain criteria. He stated the contract contained inconsistent, ambiguous, or misleading clauses which were unfairly prejudicial to the policyholder. The DOI was tasked with looking at consumer protection in terms of a contract that was seen as prejudicial and unfairly prejudicial for the policyholder. He noted statute allowed the DOI to deny or disapprove unfair exclusion. Idaho Code helped to define what was an unfair exclusion for purposes of limited policies that covered certain named illnesses or injuries.

DISCUSSION:

Chairman Cook stated this rule would be held until the next meeting.

DOCKET NO. 18-0601-2301 **Rules Pertaining to Bail Agents (ZBR Chapter Rewrite) - Proposed Rule, p. 214.** **Randy Pipal**, Consumer Services Bureau Chief, DOI, reported this rule set requirements and procedures relating to bail agents and was supplementary to other rules and laws in Idaho Code, Title 41, regulating insurance producers and also applied to bail agents. He noted bail agents requested that a time period be placed in rule to create consistency across the industry as to the customary premium payment at zero percent interest, but not beyond a "customary premium payment period." The proposed changes were to simplify, clarify, and reduce verbiage. There was no impact to the General Fund since the amount was less than \$10,000.

MOTION: **Senator Guthrie** moved to approve **Docket No. 18-0601-2301**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0602-2301 **Producers Handling of Fiduciary Funds (ZBR Chapter Rewrite) - Proposed Rule, p. 220.** **Randy Pipal**, Consumer Services Bureau Chief, DOI, stated this rule set allowable fiduciary fund accounts and types, deposits of other funds, account designation, interest, and disbursement of funds. The proposed changes were to simplify, clarify, and reduce verbiage. There was no impact to the General Fund since the amount was less than \$10,000.

MOTION: **Senator Guthrie** moved to approve **Docket No. 18-0602-2301**. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0603-2301 **Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees (ZBR Chapter Repeal) - Proposed Rule, p. 230.** **Randy Pipal**, Consumer Services Bureau Chief, DOI, stated this rule provided disclosure requirements when charging a fee to consumers. The DOI proposed to repeal this rule in its entirety. The proposed changes were to simplify, clarify, and reduce verbiage. There was no impact to the General Fund since the amount was less than \$10,000.

DISCUSSION: **Chairman Cook** queried if the DOI was making it harder for users because they had to read the rule and then read the statute. **Mr. Pipal** noted everything was spelled out clearly in statute.

MOTION: **Senator Hartgen** moved to approve **Docket No. 18-0603-2301**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0706-2301 **Rules Governing Life and Health Reinsurance Agreements (ZBR Chapter Rewrite) - Proposed Rule, p. 232.** **Eric Fletcher**, Company Activities Bureau Chief, DOI, reported this rule set standards for reinsurance agreements involving life insurance, annuities, or accident and sickness (disability) insurance in order that financial statements properly reflected business of the insurer. The proposed changes were to simplify, clarify, and reduce verbiage. There was no impact to the General Fund since the amount was less than \$10,000. He noted this rule was necessary for the DOI's accreditation.

MOTION: **Senator Lakey** moved to approve **Docket No. 18-0706-2301**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0710-2301 **Corporate Governance Annual Disclosure (ZBR Chapter Rewrite) - Proposed Rule, p. 244.** **Eric Fletcher**, Company Activities Bureau Chief, DOI, indicated this rule set procedures for filing and required content of the Corporate Governance Annual Disclosure (CGAD), necessary to carry out the provisions of Idaho Code, Title 41, Chapter 64. This rule was subject to Accreditation review. The proposed changes were to simplify, clarify, and reduce verbiage. There was no impact to the General Fund since the amount was less than \$10,000.

DISCUSSION: **Senator Lakey** inquired as to the process of becoming a "lead" state. **Mr. Fletcher** stated there were several insurers that were parts of groups that operated in multiple states or had affiliate insurers in multiple states. He explained there was an international insurance holding company with an Idaho domestic. When that occurred, the states coordinated and established a "lead" state. He stated usually it was the domicile of the ultimate controlling party. State regulators worked with the "lead" state to receive filings on a group basis and effectively tried to capture efficiencies by coordinating reviews and making sure review standards remained uniform within the accreditation guidelines.

MOTION: **Senator Guthrie** moved to approve **Docket No. 18-0710-2301**. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 18-0801-2301 **Adoption of the International Fire Code (IFC) (ZBR Chapter Rewrite) - Proposed Rule, p. 253.** **Knute Sandahl**, State Fire Marshal, stated this rule adopted the IFC and edits by the State Fire Marshal, such as the minimum standard for the protection of life and property from fire and explosion in the State of Idaho. There was no impact to the General Fund since the amount was less than \$10,000.

DISCUSSION: **Senator Ricks** asked for clarification that there were no substantive changes to the IFC, as this code was the same used in Idaho. **Mr. Sandahl** remarked the 2018 edition was the actual code being used. He noted the DOI was waiting to hear when the Building Code was adopted. He noted the code was on the website and linked to the IFC website.

MOTION: **Senator Ricks** moved to approve **Docket No. 18-0801-2301**. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

TESTIMONY: **Dean Cameron**, Director, DOI, remarked that from the perspective of the DOI, the reduction of words and the changes in statute made the rules clearer and easier. He remarked the DOI was able to stay within budget. The DOI contracted with others to help make the process go faster. The role of the DOI was to protect the consumer.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Michael Brassey, of Boise, Idaho, to the Idaho Personnel Commission (IPC), to serve a term commencing July 1, 2023 and expiring July 1, 2029.** **Mr. Brassey** gave a brief overview of his background. He noted in addition to his experience on the IPC, he held positions in state government in the past that gave him familiarity with the actual operation of the personnel system. His background as an attorney was helpful in maintaining as much of the original intent as practical.

DISCUSSION: **Senator Guthrie** asked Mr. Brassey, as a Commissioner, what was his biggest challenge. **Mr. Brassey** stated the IPC was trying to have hearing officers throughout the State so employees who wanted to appeal had a place nearby.

Senator Hartgen inquired if hearing officers were employed by the IPC. **Mr. Brassey** remarked the hearing officers were attorneys and independent contractors and not employees of the State.

Chairman Cook asked what was the average number of complaints the IPC received per year. **Mr. Brassey** stated there were approximately a dozen. In response to a question from **Chairman Cook**, **Mr. Brassey** remarked most cases were resolved within a year. When he took over there was a backlog. He made the lawyers stay within the timelines. The IPC monitored cases to make sure they were resolved within a year or less. **Chairman Cook** stated the vote would take place at the next meeting.

GUBERNATORIAL APPOINTMENT:

Committee Consideration of the Gubernatorial Appointment of Julie Ann Triepke of Meridian, Idaho, to the Idaho Health Insurance Exchange Board (IHIEB), to serve a term commencing January 7, 2024 and expiring April 10, 2025. Ms. Triepke gave an overview of her background. She noted she was an empowerment coach, always a member advocate, and would help to provide value to other IHIEB board members.

Chairman Cook stated the vote would take place at the next meeting.

GUBERNATORIAL REAPPOINTMENT VOTE:

Committee Vote on the Gubernatorial Reappointment of Heidi Hart to the IHIEB. **Senator Ward-Engelking** moved to send the Gubernatorial reappointment of Heidi Hart to the IHIEB to the floor with the recommendation that she be confirmed by the Senate. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE:

Committee Vote on the Gubernatorial Reappointment of Carolyn Lodge to the IHIEB. **Senator Ward-Engelking** moved to send the Gubernatorial reappointment of Carolyn Lodge to the IHIEB to the floor with the recommendation that she be confirmed by the Senate. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE:

Committee Vote on the Gubernatorial Appointment of Robert Cuoio to the IHIEB. **Senator Hartgen** moved to send the Gubernatorial reappointment of Robert Cuoio to the IHIEB to the floor with the recommendation that he be confirmed by the Senate. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

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