

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 21, 2017

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

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 Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 7, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of February 9, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1061 **Relating to Personnel - Elected Officials Not Eligible for Overtime.** **Susan Buxton**, Administrator, Division of Human Resources (DHR), said Idaho Code § 67-5303 provides for the application of the State personnel system on certain employees. Idaho Code § 67-5303(j) defines those positions which are part of the public educational system and are non-classified employees. The current language in this section includes a definition of officers and professional staff, including pay grade and Hay Points which do not accurately align with Idaho's current pay grades. The proposed legislation would update this section to align with Idaho's current pay grades. Idaho Code §§ 59-1607(3) and 67-5328(3)(a) are amended to remove reference to § 67-5303(j) as those employees are not currently covered by the overtime rules of the Fair Labor Standards Act (FLSA) 29 United States Code (USC) Part 526 nor under the new FLSA overtime rule effective on December 1, 2016. **Ms. Buxton** said there is no fiscal impact to the General Fund because updating the language in Idaho Code § 67-5303(j) and removing the reference to § 67-5303(j) in §§ 59-1607(3) and § 67-5328(3)(a) does not create any new funding requirement.

DISCUSSION: **Senator Martin** asked why this issue was not being handled by the Change in Employee Compensation Committee (CECC). **Ms. Buxton** said the statute changed since the CECC met. **Senator Martin** and **Ms. Buxton** had a conversation about the difference between classified and non-classified employees. **Ms. Buxton** explained the bill only had to do with the State Board of Education and State agencies. **Ms. Buxton** said the University of Idaho, Boise State University, Lewis-Clark State College, Idaho State University and Eastern Idaho Technical College, the professional staff of the Idaho Department of Education and the State Board of Education, the professional staffs of the Idaho Division of Career Technical Education and Vocational Rehabilitation, and the professional staff of Idaho Public Television, all of which are governed by the Idaho State Board of Education were all included and applied to State employees. **Ms. Buxton** noted that when any of these positions become vacant, these positions will be reviewed and designated as either classified or non-classified.

Senator Souza referred to non-classified employees and asked if teachers were

considered State employees. **Ms. Buxton** explained that school districts are all independent and not considered employees of the State.

Blake Youde, State Board of Education, said the Board of Education worked with the DHR. He said movement of the dividing line between classified and non-classified would eliminate some of the confusion at some of the institutions. **Chairman Patrick** asked how many employees would be affected. **Mr. Youde** stated some employees may be classified or non-classified, depending on the position.

Senator Martin asked if there was some adverse effect on an employee by changing the classifications. **Mr. Youde** said that employees who fall under the grandfather clause have a one-time option. For those who take the option and would become classified, accrue vacation time at a slower rate, but can accumulate more than a non-classified employee.

MOTION: **Senator Thayn** moved that **S 1061** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1046 **Health Savings Accounts (HSA's)**. **Senator Thayn** stated HSA's were for State employees. He said the State would deposit a minimum of \$500 into an employee's HSA, which would be budget-positive. There would be a one-time fiscal impact of \$68,000 to change the payroll system in the Controller's Office. He said the overall goal was to increase access, reduce costs, and promote outcomes.

Senator Thayn explained how an HSA works. Employees may choose to adopt this plan and this will be another option for State employees. HSA's would be managed by a third party vendor. He said the State and the individual would save money in the long run with a \$4,000 deductible. The benefit allows people to pay their co-pays and deductibles. **Senator Thayn** said there are still many questions the interim committee has to answer, such as how much to place into an employee's HSA. Currently, employees are not eligible to access an HSA currently due to the law.

DISCUSSION: **Senator Martin** asked if employees can opt in and out and at what frequency. **Senator Thayn** said opting in or out of an insurance program is determined on a yearly basis. **Jennifer Pike**, Administrator, Office of Group Insurance (OGI), reported employees can opt in or out on a yearly basis. This rule is governed by the Internal Revenue Service. **Senator Martin** and **Ms. Pike** discussed opting in and out of an insurance program. **Ms. Pike** said the OGI took no position on this proposed change.

Senator Souza remarked \$500 was the minimum amount the State could put into an HSA. She asked how much could the State put into an employee's HSA and still be revenue-neutral. **Ms. Pike** referred to the Milliman Study and said according to the study approximately \$2,000 would be the amount that could be deposited into an HSA by the State.

Senator Lakey asked what was the difference from what is currently in place. **Senator Thayn** stated that currently the State plan does not qualify for an HSA.

Vice Chairman Guthrie asked what happened to money deposited into an HSA if it was not used. **Senator Thayn** said the employee could keep the money and compared it to a 401(k).

Senator Ward-Engelking asked if there was money to fund HSA's. She remarked that savings are generated by how many employees choose to use an HSA. **Ms. Pike** said that additional personnel would not be hired to institute a HSA, but rather the HSA's would be handled by a third party.

Senator Lakey asked if any employees were creating a HSA. **Senator Thayn** explained that the State does not have a qualifying plan. He remarked that \$500 is way below cost-neutral. He said the interim committee could answer that question. **Senator Thayn** said HSA's are a tool.

Senator Souza said she liked the idea. She believed in this practice since wellness is promoted instead of illness. **Senator Thayn** remarked that \$500 deposited into an employee's HSA is not enough, but the State could then move to the next step.

Vice Chairman Guthrie stated \$500 is one aspect that goes into the pocket of the employee. He asked how much savings was being utilized. **Senator Thayn** remarked if premiums go down, the product would be more attractive to employees.

Senator Ward-Engelking stated she was concerned that this legislation was out in front of the work group studying insurance and asked if Senator Thayn had been in contact with the group. **Senator Thayn** said he talked to the work group about his proposal, which was a challenge last year. He asked the Committee state some reasons why an HSA should not be instituted.

Chairman Patrick said the proposed HSA was a tool for an interim committee. **Senator Thayn** stated that employees could choose either a Voluntary Employee Benefit Association plan (VEBA) or an HSA, whatever is best for them.

MOTION: **Senator Souza** moved that **S 1046** be sent to the floor of the Senate with a **do pass** recommendation. **Vice Chairman Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1057 **Relating to Employee Compensation - Annual Survey.** **Vice Chairman Guthrie** said the intent of this legislation is to remove language that could be construed as proprietary and specific to one particular vendor. The proposed legislation will also require any salary and benefit study to show as part of market comparisons data specific to Idaho public and private sector employers. **Vice Chairman Guthrie** noted that these surveys are already being done on an annual basis and Idaho data is already being collected. The cost to reflect this data separately in a report will be minimal at most.

DISCUSSION: **Senator Ward-Engelking** asked for clarification on some of the State surveys done by the Hay Group. She referred to outlying areas and other states and asked Vice Chairman Guthrie to comment. **Vice Chairman Guthrie** stated that surveys are established in different areas. He remarked the data he is asking for is meant to complement Idaho and compare to out-of-state jobs. Idaho can lose individuals to jobs out-of-state and there is value in comparing Idaho to states outside of its borders. He stated he wanted the data to be broken out. **Senator Ward-Engelking** said the goal would be to do what regional partners are doing and also to examine what is going on in the State. **Vice Chairman Guthrie** said the data has already been gathered, but has not been separated out of the report.

Senator Lakey commented that there is competition outside of Idaho and he did not have a problem with examining the data both inside and outside of the State. **Vice Chairman Guthrie** said he thought there would be a real value to having the data broken out. **Senator Lakey** asked Ms. Buxton about the Hay profile and said he thought this was a company that did market studies. **Ms. Buxton** explained the Hay methodology had been established over many years. The only concern is job evaluation. A concern expressed from one agency was the benchmark job classification. **Ms. Buxton** explained how the comparison would be apples-to-apples and jobs-to-jobs by objectively making comparisons. The survey does include Idaho jobs and classifications.

Senator Lakey referred to the generic description on page 1 of the bill and asked that if the Hay profile method was eliminated, could that methodology still be used. **Ms. Buxton** remarked that there is an understanding of what the Hay methodology entails. **Senator Lakey** commented that it appeared the Hay profile may fit within the description, but asked how would that be controlled. **Ms. Buxton** said she did not see any change and that the methodology is something that works.

Vice Chairman Guthrie commented the Hay methodology did not necessarily have to be used, but he did not foresee any changes. He agreed that all components should be examined, but that Idaho should also be a separate component and a piece of the greater survey. He suggested both surveys could be done.

MOTION: **Senator Martin** moved that **S 1057** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Thayne** seconded the motion. The motion carried by **voice vote**.

S 1077 **Relating to Insurance - Motor Vehicle Service Contracts.** **Lance Giles**, representing Asurion Portable Electronic Insurance Company, said the proposed legislation amends the Idaho portable electronic insurance statute, which was enacted in 2012. All states now have identical or similar statutes in place. **Mr. Giles** stated the relevant portion of the existing statute to be amended provides that a person who purchases a portable electronic insurance policy consents to receiving notices and correspondence electronically if the person provides an electronic e-mail address at the time of sale and simultaneously receives notice of such consent from the insurance company. He said the proposed legislation provides that notice of consent by the consumer shall be made, either by mail or electronic means, within 30 days of the transaction rather than simultaneously. **Mr. Giles** explained that customer and vendor experience throughout the country from 2012 to date shows that providing simultaneous notice is generally not possible given the nature of the transaction. Accordingly, the result of enacting this legislation will allow easier access to electronic communication between a consumer and a portable electronics insurer. **Mr. Giles** stated there would be no fiscal impact because the proposed legislation would not require any new regulatory responsibilities or actions by the Department of Insurance.

In addition, **Mr. Giles** pointed out there was a section on page 2, Section 2 of the printed bill, line 23, following "penses" that had been inadvertently left out. The bill should be amended to read, "An agreement whereby an employer, or a third party contracted by the employer, provides mileage reimbursement and incidental maintenance and repairs to its employees for personal vehicles used for business purposes shall not be considered a motor vehicle service contract or a contract of insurance."

MOTION: **Senator Martin** asked that **S 1077** be referred to the 14th Order for amendment. **Senator Ward-Engelking** seconded the motion.

Vice Chairman Guthrie expressed his concerns about this bill. He said that this legislation will lengthen the car-buying process. He said he could not support this bill. **Senator Burgoyne** commented he had concerns, but they were addressed. He remarked customers need to be aware of the value of these types of contracts. The motion carried by **voice vote**. **Vice Chairman Guthrie** asked to be recorded as voting nay.

PASSED THE GAVEL: Chairman Patrick passed the gavel to Vice Chairman Guthrie.

RS 25299

Unanimous Consent Relating to Building Safety, Rejected Rule. Chairman Patrick noted this Routing Slip (RS) rejects a certain rule of the Division of Building Safety, **Docket No. 07-0501-1601**, relating to rules of the Public Works Contractors License Board. There is no fiscal impact because the rule does not go into effect. **Chairman Patrick** asked for unanimous consent to send this RS to a privileged committee for a print hearing. There were no objections.

PASSED THE GAVEL:

Vice Chairman Guthrie passed the gavel to Chairman Patrick.

S 1039

Employment Security Law. Georgia Smith, Deputy Director, Department of Labor (DOL), Communication and Research, stated that by changing the status of Career Information System (CIS) positions from exempt (non-classified) to classified involves no major changes in compensation, vacation, sick leave accrual or benefits. Based on the statutes already in place and followed by the DOL, the four positions are earning a salary equivalent to an appropriate department classified pay grade, which is a pay grade "L" as shown in the current Fiscal Year (FY) 2017 compensation schedule as maintained by the Division of Human Resources. This change will increase the DOL's ability to employ and recruit top tier candidates. With Idaho's low unemployment rate and tight labor market, recruiting new employees to an exempt position is a challenge. The proposed change will allow the DOL to maximize the use of its total Full-Time Equivalent (FTE) count by increasing its ability to redeploy personnel where and when necessary, increase retention, and reduce training costs for staff through access to promotional opportunities within the DOL.

Ms. Smith commented that except for the administrator's position which will remain exempt, all CIS staff will be required to reapply for the newly classified positions.

Ms. Smith reported that delivery of career information is also integrated into the DOL's services it provides to unemployment insurance claimants, job seekers and youth, and is a key component of any application for intensive job search services. CIS also plays an essential role for those participating in services provided by the Workforce Innovation and Opportunity Act (WIOA). Oftentimes, CIS activities are a first step for youth and adults entering into a WIOA program. **Ms. Smith** pointed out these positions are also critical for meeting the requirements the DOL agreed to when it received a \$274,275 Corporation for National Community Service Grant. These funds are being used to pay for 11 Idaho AmeriCorps members who are working as college and career coaches at Jerome Middle School, Jerome High School, Burley High School, Weiser Middle School, Black Canyon Alternative High School, Lakeside Junior-Senior High School, Caldwell High School, Canyon Springs High School, Cassia Alternative High School, Raft River Junior-Senior High School (recruiting), and Burley Junior High School (recruiting). All of these schools are rural, low-income schools. **Ms. Smith** noted staff are also overseeing work currently being performed by three Volunteers in Service to America (VISTA) members who are assigned to the DOL. Each of the three VISTA members are working with local schools, school districts, workforce providers, and community stakeholders in Northern, Southeastern, and Southwestern Idaho to develop locally-driven strategic plans for carrying out career planning activities.

Ms. Smith gave a brief background of Idaho's CIS. She said the CIS was established 36 years ago in 1980 and the only comprehensive source of career information specific to Idaho and the nation. Throughout the years, delivery of the information housed within this system has evolved from punch cards in the needle sort deck to a robust online service delivery system. Management staff and program administration was originally part of the Idaho Division of Professional Technical Education (IDPTE). **Ms. Smith** explained that in 2008, Idaho Code § 72-1345A was amended and the network, employees, and funding responsibility for

staffing, populating, and maintaining Idaho's CIS were transferred from the IDPTE to the DOL. As outlined in the amended code, Idaho's Workforce Development Council (IWDC) was listed as the designated advisory body and the positions to be transferred were listed as exempt. **Ms. Smith** remarked that today there are six employees, including one administrator, three training and marketing specialists, a senior research analyst, and a technical records specialist. These employees introduce the system to and help Idaho schools meet the terms and conditions of S 1290 (2016) and requires and funds career planning in the schools and school districts throughout the State.

Ms. Smith related that the Idaho Workforce Development Council, consisting of representation from the Office of the State Board of Education, the DOL, the Division of Vocational Rehabilitation, the Department of Education, and the Workforce Development Council, serves as the system advisory board. Through the creative use and delivery of information on occupations, wages, and career paths, this system has helped students and adults learn more about career opportunities, education, and training programs at Idaho colleges and universities and reach their career goals.

DISCUSSION: **Vice Chairman Guthrie** remarked that by reclassifying individuals, the DOL was trying to weed out those who are not working up to capacity. **Ms. Smith** said that the goal was to make positions more attractive and to encourage employees to stay. She said that under the current non-classified employee status, an employee cannot apply for promotions within the agency.

Senator Burgoyne asked if reclassifying employees was a choice of the DOL. There is a legal requirement that reclassified employees would have to reapply for their positions. **Ms. Smith** commented that others would have the opportunity to apply for those positions as well. **Senator Burgoyne** asked how many people report to the administrator. **Ms. Smith** said there were five people who reported to the administrator and that the administrator was a working administrator who performed technical duties.

Senator Martin asked how the individuals felt about the change in classification. **Ms. Smith** said all were spoken to and were enthusiastic about the job reclassification.

Sara Scudder, CIS Administrator, DOL, said she had individual discussions with each employee and all were supportive of the reclassification because of the opportunity for promotion.

Senator Burgoyne remarked he found it interesting to subject those who are performing well to a competitive process. **Ms. Smith** commented that reapplication is a requirement of the process of reclassification. **Senator Ward-Engelking** and **Ms. Smith** had a conversation about employees being grandfathered in and the legal requirement to open jobs back up. **Vice Chairman Guthrie** said that the classified positions will be open to anyone and he expressed concern.

MOTION: **Senator Martin** moved that **S 1039** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Souza** seconded the motion.

ROLL CALL VOTE: **Senators Martin, Souza, Anthon,** and **Chairman Patrick** voted aye. **Vice Chairman Guthrie, Senators Thayn, Ward-Engelking,** and **Burgoyne** voted nay. The motion failed.

MOTION: **Senator Thayn** requested that **S 1039** be referred to the 14th Order for amendment. **Senator Burgoyne** seconded the motion.

ROLL CALL VOTE: **Vice Chairman Guthrie, Senators Thayn, Ward-Engelking, Burgoyne, and Chairman Patrick** voted aye. **Senators Martin, Souza, and Anthon** voted nay. The motion carried.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 3:02 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary