

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, February 19, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

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

ABSENT/ EXCUSED: Senator Thayn

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.

INTRODUCTION OF NEW PAGE: **Chairman Patrick** introduced Page Alex Knowlton and asked him to tell the Committee what high school he attended and to provide some background. **Mr. Knowlton** said he was a junior at Cole Valley Christian High School. He told the Committee he works at the Hideaway Bar and Grill where he cooks, preps, waits tables, and fills in as manager. He loves to stay busy, work, and help people. He stated he wants to go to college and take political science, law, business, and marketing courses.

MINUTES APPROVAL: **Vice Chairman Agenbroad** moved to approve the Minutes of February 5, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1048 **Senator Martin** moved to approve the Minutes of February 7, 2019. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1048 **Relating to Credit Unions. Ryan Fitzgerald**, Northwest Credit Union Association, reported this legislation provides technical corrections and further amends the internal governance provisions of the Idaho Credit Union Act that were amended in 2018. This legislation amends the requirements for annual credit union membership meetings in order to allow greater access for members to be involved in the governance of their credit union; makes a technical correction to the different options a credit union supervisory committee can utilize in verifying member accounts; adds technical descriptors to further define the Capital, Assets, Management, Earnings, Liquidity, and Sensitivity (CAMELS) rating system; and amends bond requirements to clarify what each credit union must carry in order to insure against risk versus optional coverages that may also be purchased by the credit union.

TESTIMONY: **John Watts**, Idaho Central Credit Union, testified in support of this bill. He remarked there would be a positive effect on credit union members by holding meetings throughout the State.

MOTION: **Senator Souza** moved to send **S 1048** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1011

Relating to Underground Facilities Damage Prevention. Patrick Grace, Damage Prevention (DP) and Public Works Contractor Licensing (PWCL), Idaho Division of Building Safety (IDBS), reported that according to Idaho Code, the owner or owner's agent of identified but unlocatable underground facilities, shall locate and mark the underground facilities in accordance with the best information available to the owner of the underground facilities and with "reasonable accuracy." **Mr. Grace** defined an identified but unlocatable underground facility as "an underground facility which has been identified but cannot be located with reasonable accuracy." This legislative proposal will correct this discrepancy and require locatable underground facilities to be marked with reasonable accuracy. **Mr. Grace** reported if underground facility owners and excavators who observe, suffer, or cause damage to an underground facility, or observe, suffer, or cause excavator downtime, shall report this information to the DP Board. This can cause duplicative reporting of the same incident by both underground facility owners and excavators. The DP Board believes underground facility owners are best situated to report damage to underground facilities. Excavators are better suited to report downtime they suffer due to violations of code.

Mr. Grace stated it was necessary to define the terms for "hand digging," "soft digging," and "locator." These definitions will be added in this legislative proposal.

DISCUSSION:

Senator Souza inquired if the homeowner or the municipality have liability when a municipality has old underground facilities that are unlocatable. **Mr. Grace** stated the owner of the facility is ultimately responsible for any excavation, notifying the dig line, notice of excavation, locating, and finding the underground facility.

MOTION:

Vice Chairman Agenbroad moved to send **S 1011** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

S 1073

Relating to Underground Facilities Damage Prevention. Patrick Grace, Damage Prevention (DP) and Public Works Contractor Licensing (PWCL), Idaho Division of Building Safety (IDBS), commented Idaho Code § 55-2205(2) requires underground facility owners to locate and mark all underground facilities. Some underground facility owners are also end-user consumers of utility services or commodities. Service laterals are underground facilities located in public rights-of-way or utility easements. End users do not have operational control of, or the expertise or equipment to locate or mark service laterals, despite owning them, because the laterals are in rights-of-way of utility easements. **Mr. Grace** noted this legislation will exempt end-users from the requirement to locate and mark service laterals. This legislative proposal will also require underground facility owners to locate and mark service laterals. He referred the Committee to language that was added on page 4, lines 17 through 20 of the bill.

DISCUSSION:

Senator Souza queried if the city or the homeowner would be liable if there was damage to a lateral at the right-of-way. **Mr. Grace** reported that currently, the property owner is responsible. **Senator Souza** and **Mr. Grace** discussed liability for property owners and municipalities when underground facilities are not marked. **Mr. Grace** deferred to the DP Board Chairman, Jeffrey Diehl.

TESTIMONY:

Jeffrey Diehl, Chairman, DP Board, reported that when an underground facility cannot be reasonably located, the responsibility would be on those who are hired to do the work. The liability for repairs are not dealt with in this bill.

DISCUSSION: **Senator Souza** commented she has heard from constituents who have had to pay for extensive lateral repair when there was a break in a lateral that went through their property and through to the street. She remarked the municipality should have some responsibility for repairs rather than placing all of the burden on the homeowner. **Mr. Diehl** remarked those parameters lie outside of this proposed bill.

Senator Burgoyne commented his understanding is that his water and sewer lines extend to a certain point in the street, which is owned by local government. He inquired as to who is responsible for location of the portion of the underground facility that he does not own. **Mr. Diehl** indicated the proposed language in the bill indicates the end-user is not responsible for marking the utilities, but the burden of proof is on the owner of the facility. He remarked the burden of responsibility is on the owner or operator, which is identified in the bill and different from the end-user.

Senator Guthrie queried what distinguishes a locater. **Mr. Diehl** commented a locater is defined in **S 1011**. The burden falls on the operator and through industry best practices. He stated a locater can be outsourced. **Senator Guthrie** and **Mr. Diehl** discussed horizontal locators and depth of digging.

Senator Burgoyne and **Mr. Diehl** discussed indemnity claims, civil penalties, and excavator's rights for damages. **Mr. Diehl** commented the DP Board does not have jurisdiction over any of these types of things and they are handled in court.

MOTION: **Senator Burgoyne** moved to send **S 1073** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion.

DISCUSSION: **Senator Souza** stated she will not oppose the bill, but is uncomfortable that it does not place enough responsibilities on the municipalities to locate underground facilities. **Senator Burgoyne** stated he agreed.

VOICE VOTE: The motion to send **S 1073** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 3 **Relating to Occupational Licensing.** **Rob McQuade**, Attorney, Idaho Bureau of Occupational Licenses (IBOL), stated the Idaho Licensing Board of Professional Counselors (ILBPC) and Marriage and Family Therapists (MFT) is proposing to move educational program and practicum requirements for licensing professional counselors and licensed professional clinical counselors from statute and allow the IBOL to establish these requirements in rule. This would allow the IBOL to approve educational programs based on accreditation standards, regardless of the specific number of semester hours required, and create more flexibility for practicum requirements. These changes will reduce barriers to licensure and provide more flexibility to applicants.

Mr. McQuade reported the IBOL is proposing an increase in the statutory fee caps for the original license, application, endorsement, and renewal fees from \$100 to \$175; to remove confusing language regarding the payment of fees; and to enable the IBOL to refund an original license fee to an applicant when a license is not issued. The IBOL's dedicated fund would have a reduction of approximately \$700 per year, based on the number of licenses that were not issued in the last year.

DISCUSSION: In answer to questions by Senator Guthrie, **Mr. McQuade** yielded to Roger Hales, Legal Counsel, IBOL. **Mr. Hales** and **Senator Guthrie** discussed the IBOL's budget, including expenses, revenue, and reserves. They discussed how the IBOL may have to increase fees in the future.

Senator Burgoyne observed barriers to licensure were removed, but stated he did not know if it was better to have licensure requirements in rule rather than in statute.

MOTION: **Senator Martin** moved to send **H 3** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 4 **Relating to Occupational Therapists. Rob McQuade**, Attorney, Idaho Bureau of Occupational Licenses (IBOL), advised the Idaho Occupational Therapy Licensure Board (IOTB) is proposing legislation to remove outdated language that limits the number of times an applicant may fail the national examination; clarify language regarding inactive licensure and address the procedure to put a license into inactive status, to renew, and to return the license to active status; eliminate the detailed requirements for the rules prescribing the practices and procedures for supervision; modernize and standardize language regarding renewal and reinstatement and continuing education; and remove the requirement for biennial proof of continuing education.

MOTION: **Senator Lakey** moved to send **H 4** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:32 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary