

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, January 26, 2021

TIME: 1:15 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Souza, Senators Martin, Lakey, Guthrie, Agenbroad, Riggs, 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 1:16 p.m.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of January 19, 2021. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

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

DOCKET NO. 09-0101-2001 **Pending Rules of Administrative Procedure of the Idaho Department of Labor (IDOL), p. 4. Amy Hohnstein**, Appeals Bureau Chief, IDOL, reported Docket 09.01.01, Subsections 27, 35, 36, and 37, "Appeals to Appeals Examiner," that the proposed changes clean up and update the rules to reflect: 1) Electronic transmission (email) is an acceptable method for transmitting a protest or appeal; 2) The date the IDOL receives a protest for a decision on an appeal for unemployment insurance benefits or a wage and hour claim will be the date deemed filed, or if the protest is received on a holiday, the next business day; and, 3) The date of mailing or service indicated on the determination shall be deemed the date of service.

Ms. Hohnstein noted there are no changes to the pending rule and it is being adopted as originally proposed. She stated there is no fiscal impact to the State of Idaho for any part of this rule change. This rule change will not increase costs to any state agency or the General Fund because the proposed changes align the rule with current, acceptable practices and time frames for electronic transmission of a protest or appeal.

DISCUSSION: **Vice Chair Souza** stated there was no mention of negotiated rulemaking and queried whether there was any pro or con feedback on the change. **Ms. Hohnstein** indicated there was none. **Chairman Patrick** commented it is not always feasible to conduct negotiated rulemaking. He pointed out when negotiated rulemaking is conducted for complicated rules, the process is easier with fewer questions being asked.

MOTION: **Senator Ward-Engelking** moved to approve **Docket No. 09-0101-2001**. **Senator Agenbroad** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
09-0160-2001
(CHAPTER
REPEAL)**

Pending Rules of Complaint Procedures Under the Workforce Innovation and Opportunity Act (WIOA), IDOL, p. 8. **Ms. Hohnstein** stated the IDOL proposes to repeal this chapter in an attempt to eliminate unnecessary red tape. She noted all provisions are duplicated in IDOL procedures and federal law (Title 29, Subtitle Part A, Part 38, Code of Federal Regulations - Implementation of the Non-Discrimination and Equal Opportunity Provisions of the WIOA).

MOTION:

Senator Martin moved to approve the repeal of **Docket No. 09-0160-2001 (Chapter Repeal)**. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
09-0130-2002**

Pending Rules of Unemployment Insurance Benefits Administration Rules, IDOL, p. 8. **Josh McKenna**, Unemployment Insurance Benefits Bureau Chief, IDOL, explained the changes and the reasons for adopting the pending rule. He advised this rule updates existing rules and eliminates unnecessary words. **Mr. McKenna** noted that in Docket 09.01.30.125, "Alien Eligibility," replaces outdated references to the federal Immigration and Naturalization Service with the federal department's current title, "U. S. Department of Homeland Security." **Mr. McKenna** stated Docket 09.01.30.425, "New Claims," replaces outdated references to "Idaho Works" with "American Job Centers."

Mr. McKenna reported there are no changes to the pending rule and it is being adopted as originally proposed. There is no fiscal impact to the State of Idaho for any of these changes. The rule change will not increase costs to any state agency or the General Fund because the rule change relates to simple wording updates.

DISCUSSION:

Chairman Patrick commented the State of California lost billions of dollars in unemployment benefits fraud last year. He asked if these changes to the Idaho rules would help. **Mr. McKenna** noted these changes had no impact on those situations. It has always been the practice of the IDOL to verify whether someone was a citizen. If a noncitizen applies for unemployment benefits and is not authorized to work, the claim will be denied. **Mr. McKenna** said this rule was not related to the pandemic.

MOTION:

Senator Ward-Engelking moved to approve **Docket No. 09-0130-2002**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chair Souza passed the gavel to Chairman Patrick.

RS 28291

Relating to Public Contracts. **Jeremy Chou**, American Council of Engineering Companies, explained this legislation involves clarifications of Idaho's Qualifications-Based Selection (QBS) process. **Mr. Chou** noted QBS is a selection process for the procurement of professional services such as engineering, construction management, architecture, landscape architecture, and land surveying. QBS has been the law in Idaho for over 35 years. QBS focuses on retaining knowledgeable and skilled professionals with specific experience for complex projects like schools, bridges, roads, municipal water, and wastewater facilities. Nearly all these projects involve public health, safety, or welfare concerns where the involvement of a qualified professional are paramount. **Mr. Chou** indicated the legislation helps make QBS more transparent and provides more guidance in maneuvering through the QBS process.

Mr. Chou noted there is no fiscal impact to the General Fund because Idaho already has a QBS process in place.

DISCUSSION: **Senator Martin** and **Mr. Chou** discussed how this legislation would make the QBS selection process more consistent and understandable with Idaho Code.

MOTION: **Senator Burgoyne** moved to send **RS 28291** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 28303 **Relating to Consumer Protection.** **Ken McClure**, Idaho Petroleum Marketers, testified this legislation specifies that the statute prohibiting excessive pricing during a declared emergency applies to exorbitant or excessive increased prices to the consumer, rather than to the margin between wholesale and retail prices. He explained that the Consumer Protection Act (CPA) addressed the sale of fuel, food, pharmaceutical, or water consumption during times of emergency. Price gouging or taking advantage of a disaster or emergency is prohibited. **Mr. McClure** defined price gouging as charging high prices and taking advantage of supplies and an increase in demand. **Mr. McClure** said in Idaho Code, any time there is a declared emergency, if during that emergency a retailer is selling one of those four resources previously mentioned, that the CPA can control retailer margins. If a retailer is charging a low price and not increasing the price and if there is a gasoline glut on the market, it is difficult to understand why the State would say margins are too high and the retailer is making too much money. Yet, that is what happens.

Mr. McClure opined the statute deserved attention and that an appropriate change could be made.

Mr. McClure noted there is no fiscal impact to the General Fund because no additional personnel or administrative costs are required by this clarification to Idaho Code.

DISCUSSION: **Senator Agenbroad** stated he supported the idea of clarifying emergencies and that margin may be the crux of the problem.

MOTION: **Vice Chair Souza** moved to send **RS 28303** to print. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1012 **Relating to Dentistry.** **Susan Miller**, Executive Director, Idaho State Board of Dentistry (ISBD), reported this bill removes obsolete and outdated sections. She noted this bill also ensures a dentist cannot limit a patient's right to file a complaint with the ISBD. **Ms. Miller** said this is a housekeeping bill that removes a requirement to report that is already in statute. **Ms. Miller** remarked this legislation will have no fiscal impact on the General Fund or the ISBD's dedicated fund.

Ms. Miller outlined the history of this legislation. She noted there was a bill brought forth last year in relation to teledentistry. The Governor acknowledged there were components in the bill that could enhance the safety of teledentistry services, and he directed the ISBD to consider the necessity of these safeguards as rules were re-promulgated. The ISBD reviewed the language and made a change which mirrors language from previous legislation (S 1295). This is an important consumer protection provision and it is supported by all stakeholders.

A letter of support from the ISDA was submitted for the record (Attachment 1).

MOTION: **Vice Chair Souza** moved to send **S 1012** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 1:42 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary