

MINUTES
HOUSE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 09, 2021

TIME: 1:30 P.M.

PLACE: Room EW05

MEMBERS: Chairman Holtzclaw, Vice Chairman Syme, Representatives Harris, Kingsley, Christensen, Giddings, Wisniewski, Horman, Hanks, von Ehlinger, Weber, Chew, Necochea, Toone

**ABSENT/
EXCUSED:** Vice Chairman Syme, Representative(s) Horman

GUESTS: Burt Wille, Idaho Chapter of Community Association Institute (CAI); Brindee Collins, Idaho CAI; Brandi Pearson, Idaho CAI; Patrick Galloway, Idaho CAI; Carson Tester, Westerberg & Associates

Chairman Holtzclaw called the meeting to order at 1:30 PM.

MOTION: **Rep. Toone** made a motion to approve the minutes of the February 23, 2021 and March 1, 2021 meetings. **Motion carried by voice vote.**

S 1082: **Rick Ferguson**, CEO, Idaho State Insurance Fund (SIF), introduced **S 1082** to the Committee. He gave a brief overview of SIF stating their main objective is workers compensation. He stated most of their clientele is typically small businesses; often businesses which are harder to underwrite, such as tree trimmers or very rural businesses. In 1998 the legislature modified SIF to no longer be a government agency, instead they are now semi-private. The Department of Labor oversees SIF and it is governed by a board with two legislators serving as board members. He also stated SIF has an auditor with direct oversight, most assets are held by endowment fund, and the board must provide written approval if they want to liquidate more than five percent of these assets. **S 1082** would allow SIF to bank directly rather than through the Treasurer's office. This would also allow them to pay employees directly rather than through the State Controllers office. They would like to be able to manage payroll directly as it gives them more flexibility and more working days. This legislation would allow them to work more independently and operate more like a private business than a government agency. He concluded by stating there is no opposition from other state agencies.

In response to Committee questions **Mr. Ferguson** clarified employees of SIF are not state employees but are enrolled in the Public Employee Retirement System of Idaho (PERSI). He stated this legislation would not be a move towards privatization of SIF, it would simply be a means to help them more easily meet their mission and be sure their loyalties lay with Idahoans first rather than a government entity. He also clarified SIF's inability to bank directly has a negative impact on their flexibility in regards to payment methods for beneficiaries and other clients. In response to questions about transparency and scrutiny Mr. Ferguson stated SIF is highly regulated just like private insurance companies and undergoes an independent audit every five years. This legislation simply allows them to operate in a more businesslike way, this transition would also remove the obligation to report salary structures to Transparent Idaho. He stated the December deadline to transition away from the state mandated sick leave program was chosen as they wanted time to coordinate with the State Controllers Office and felt they wouldn't be able to meet the traditional July date. He further clarified SIF currently does not budget through the Treasure's office or the state and this legislation would not change their budgeting process. He explained the benefits of operating as a quasi-governmental

agency rather than a completely private or public agency. He stated in areas where workers compensation is public it becomes a monopoly, while in areas where it is privatized the loyalty of insurance companies lies with the policy holders, under the current system SIF's main loyalty is to Idaho and Idahoans. He also stated his belief this allows them to carry out their mission in the best way possible. In response to questions about the logistics of this transition to new policy Mr. Ferguson stated employees would remain enrolled in PERSI and new employees would be hired under a paid time off model. He also stated currently SIF employees are required to take twenty-five percent more holidays off than their competitors and this legislation would allow them to implement a holiday pay schedule and allow employees to work those days.

Chairman Holtzclaw put the Committee at ease and called them back to order at 1:53 PM.

MOTION: **Rep. Necochea** made a motion to send **S 1082** to the floor with a **DO PASS** recommendation.

Committee members commented on their unease at the removal of transparency contained in this legislation as well as the removal of constitutional officers such as the State Treasurer and State Controller.

ROLL CALL VOTE: A roll call vote was requested on the motion. **Motion failed by a vote of 3 AYE, 9 NAY, 2 Absent/Excused. Voting in favor** of the motion: **Reps. Weber, Necochea, and Toone. Voting in opposition** to the motion: **Reps. Harris, Kingsley, Christensen, Giddings, Wisniewski, Hanks, von Ehlinger, Chew, and Holtzclaw. Reps. Syme and Horman** were Absent/Excused.

H 287: **Rep. Troy** presented **H 287** to the Committee stating it would simply bring all existing code regarding Home Owners Associations (HOAs) to be consolidated into a single chapter. She stated some concern about wanting to do more, but felt it was too late in the session to do so. She also shared some concern from constituents about the language providing legislative intent being not positive enough, but stated the language concerning homeowners rights is the most important part of this legislation. The only other new language in this bill concerns how and when notice of HOA meetings will be given.

In response to Committee questions **Rep. Troy** explained language allowing meeting notifications to be delivered electronically really only concerns more urban areas as this is where HOAs tend to be located. This language allows for electronic notice, but homeowners without the ability to receive electronic notice would still need to be given notice in another form.

MOTION: **Rep. Harris** made a motion to send **H 287** to the floor with a **DO PASS** recommendation.

Burt Willie, Idaho CAI; **Brindee Collins**, Idaho CAI; and **Patrick Galloway**, Idaho CAI, testified **in opposition** to **H 287**. They praised the effort to consolidate all Idaho statutes concerning HOAs into a single chapter but expressed concern for both the new section concerning open meeting laws and the legislative intent language. They stated the new open meeting language would take away any ability for HOAs to convene in executive session as well as the ability to keep any private issues of homeowners from becoming public. They stated this would lead to excessive litigation and animosity among communities. They stated HOA's are created by developers as a result of zoning and land use laws and take up concerns which would otherwise be considered city infrastructure. Additionally they stated the language contained within the legislation was often contradictory and unclear. They stated the language contained in the open meeting section was restrictive and requiring more open meetings may very well go against the wishes

of many homeowners. Finally they stated the intent of this legislation is good but some missteps indicate HOAs need to be involved in the bill drafting process.

In response to Committee questions **Mr. Willie** stated the unclear open meeting language will likely lead to an overwhelming amount of litigation as HOAs attempt to use only electronic means of delivery and homeowners do not receive meeting notifications. He also stated the main issue with the legislative intent language was due to the argumentative and excessive nature of it. He stated most HOAs do not have a problem of overstepping and the control should be left to more local entities as all cities have different requirements and expectations. **Ms. Collins** echoed the criticism of the legislative intent language and added it only fuels the existing bias against HOAs.

Rep. Troy reiterated this legislation exists mainly to pull all statute regarding HOAs into a single condensed chapter. She also stated there is nothing in the legislation which would bar HOAs from holding executive sessions.

Committee members expressed concern that the legislation could be changed for the better with input from representatives of Idaho HOAs. Other Committee members expressed concern about the amount of time left in the current session and questioned the necessity of advancing legislation which might be improved.

SUBSTITUTE MOTION:

Rep. Weber made a substitute motion to **HOLD H 287** in Committee.

Rep. Toone mentioned the current plan to go into general orders in the near future and stated there would be plenty of time to amend the legislation if necessary.

AMENDED SUBSTITUTE MOTION:

Rep. Toone made an amended substitute motion to send **H 287** to **GENERAL ORDERS**.

Committee members felt there was some consensus on the potential issues in this legislation and expressed concern that public input isn't necessary for amendments when public input is what brought these issues to light in the first place.

ROLL CALL VOTE ON AMENDED SUBSTITUTE MOTION:

A roll call vote on the amended substitute motion was requested. **Motion failed by a vote of 2 AYE, 9 NAY, 3 Absent/Excused. Voting in favor of the motion: Reps. Christensen and Toone. Voting in opposition to the amended substitute motion: Reps. Kingsley, Giddings, Wisniewski, Hanks, von Ehlinger, Weber, Chew, Necochea, and Holtzclaw. Reps. Syme, Harris, and Horman were Absent/Excused.**

ROLL CALL VOTE ON SUBSTITUTE MOTION:

A roll call vote on the substitute motion was requested. **Motion carried by a vote of 11 AYE, 0 NAY, 3 Absent/Excused. Voting in favor of the motion: Reps. Kingsley, Christensen, Giddings, Wisniewski, Hanks, von Ehlinger, Weber, Chew, Necochea, Toone, and Holtzclaw. Reps. Syme, Harris, and Horman were Absent/Excused.**

ADJOURN:

There being no further business to come before the Committee the meeting adjourned at 2:29 PM.

Representative Holtzclaw
Chair

Emma Wall
Secretary