

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 07, 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 Thayn** moved to approve the Minutes of February 21, 2017. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

Senator Souza moved to approve the Minutes of February 23, 2017. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Senator Ward-Engelking moved to approve the Minutes of February 28, 2017. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1048 **Relating to Insurance Companies Selling Limits-Type Underinsured Motorist Coverage.** **Senator Rice** said this bill adds requirements that insurance companies selling limits-type underinsured motorist coverage provide a summary explanation of the effect of such limits-type underinsured motorist coverage to purchasers prior to issuance of the coverage.

Senator Rice explained there is no fiscal impact to the General Fund or local government because the responsibility required by the change is on the seller of underinsured motorist coverage. There is a marginal cost to auto insurance sellers.

Chairman Patrick asked if the disclosure had to be in writing every year upon renewal. **Senator Rice** said yes.

TESTIMONY: **Michael Kane**, representing the Property Casualty Insurers Association of America, testified in support of this bill.

Senator Burgoyne asked if the notice would come with the renewal on a declaration page. **Mr. Kane** said there will be a special form that a person has to actually sign.

MOTION: **Senator Guthrie** moved that **S 1048** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

S 1076

Relating to Protection of Public Employees. **Senator Lakey** said the proposed amendment would make the subsection consistent with the title and other subsections by adding the same language regarding protections for employees who report the violation of government waste or a violation of law, rule or regulation under the Whistleblower Protection Act, Idaho Code § 6-2104. The language is included in Idaho Code § 6-2104(1), (3), and (4) and the amendment would add to subsection (2). The clarifying language will specify that an employee is protected from employer retaliation when participating or revealing information in an investigation, hearing, court proceeding, legislative, or other inquiry.

Senator Lakey cited a recent court case where an individual prevailed at the district court level because the validation regarding the employee did not pertain to government waste or violation of the law. The individual appealed to the U.S. Supreme Court. The Supreme Court took a literal view and said that despite the apparent intent of the Whistleblower Protection Act, the literal language did not require that the Act relate to government waste or a violation of the law. Participation in any investigation or administrative review is protected. **Senator Lakey** explained that what this proposed legislation does is to insert language that is similar to Section 1 and the other sections that tie the investigation to the existence of any waste of public funds, property or manpower or a suspected violation of the law, rules, or regulation.

Senator Lakey stated there is no quantifiable fiscal impact to the General Fund or to other political subdivisions because the numbers and types of claims that may be asserted are unknown. There may be a savings in limited exposure to liability by all levels of government.

Senator Lakey went over the amendment to this bill. He said that on page 1 of the printed bill, lines 23 through 29 would be deleted and (2) (a) "An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding legislative or other inquiry, or other form of administrative review" would be added. Also added would be (b) "For purposes of paragraph (a) of this subsection, an employee participates or gives information in good faith if there is a reasonable basis in fact for the participation or the provision of the information. Good faith is lacking where the employee knew or reasonably ought to have known that the employee's participation or the information provided by the employee is malicious, false or frivolous."

MOTION:

Senator Burgoyne moved that **S 1076** be referred to the 14th Order for amendment. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 63

Relating to the Employment Security Law. **Georgia Smith**, Deputy Director, Communications and Research, Department of Labor (DOL), said the purpose of the bill was to amend references from the Workforce Investment Act (WIA) to the Workforce Innovation and Opportunity Act (WIOA) in Idaho Code § § 72-1336, 72-1336A and 72-1366.

Ms. Smith said there is no fiscal impact. The changes represented in this bill are in technical references to what was formerly the Workforce Investment Act (WIA), now the Workforce Innovation and Opportunity Act (WIOA).

Ms. Smith outlined the significant changes between what WIA passed in 1998 and what WIOA passed in 2014. She said one of the changes was the alignment of the U.S. Department of Education and the U.S. DOL workforce programs designed to increase occupational skills, employment retention, and earnings of program

participants. In addition to the DOL, other State agencies included in carrying out the Act include the Idaho Division of Career and Technical Education, Idaho Division of Vocational Rehabilitation, and the Idaho Commission for the Blind and Visually Impaired. Another change was a requirement for a single, statewide plan with standardized performance measures between the State agencies charged with carrying out these programs.

Ms. Smith remarked the programs funded through the WIOA focuses on enrolling eligible participants in training/educational opportunities that lead to employment in high growth or in-demand jobs. Priority is given to participants from low-income households and with barriers to employment. Most of Idaho's adult and youth program participants who are enrolled in the WIOA programs receive some level of public assistance. Year after year, 80 percent or more of Idaho's program participants on public assistance become employed by the time they exit the program. As a highlight in program year 2015, 100 percent of Idaho public assistance recipients in the Dislocated Worker Program were employed when they left the program. The average cost per participant, not just training, was \$3,321 for adults, \$3,932 for dislocated workers, and \$4,207 for youth. The DOL serves approximately 1,500 to 2,200 eligible participants per year.

DISCUSSION: **Senator Souza** asked if there were any new changes. **Ms. Smith** explained the only changes were technical references to the program.

MOTION: **Senator Martin** moved that **H 63** be sent to the floor of the Senate with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 118 **Relating to Cemeteries.** **Jim Burns**, Securities Bureau Chief, Department of Finance (DOF), said the purpose of this legislation is to make one technical correction and to give the Director of the DOF, in certain events, the temporary authority to order that endowment care funds be administered in a manner that provides for the reasonable care and maintenance of an endowment care cemetery. **Mr. Burns** remarked that approximately 50 percent of people are opting to be cremated rather than a burial. The DOF's role is currently limited solely to examining and ensuring that endowment care cemeteries are properly placing a portion of plot, niche and crypt sales into a trust fund as required under the statute. These trust funds are intended to help support the care and maintenance of the endowment care cemetery as promised. Cemetery authorities are required to make limited annual financial filings with the DOF.

Mr. Burns said this proposal is not expected to have any fiscal impact to the State. The amendment does not imply additional agency personnel time (hence no fiscal impact) as the statutory amendment seeks to only add additional means to temporarily block violations of the statute. There is no implied cost to the industry if they are acting in compliance with the law. There is no penalty provision associated with this statutory amendment. **Mr. Burns** explained there are only 13 endowment care cemeteries that are currently subject to regulation under the Endowment Care Cemetery Act.

Mr. Burns said the DOF seeks to address a gap between when violations are being identified relating to trust fund distributions and when legal action is taken by the Attorney General (AG) or the related cemetery authority. Currently if the DOF identifies that trust funds are being mishandled or that proper trusting of funds is not occurring, the only recourse is to notify the AG's Office, the cemetery authority and the trustees of the endowment funds of the violation. The AG has 90 days after notice to initiate an enforcement action. Notifying, educating and assisting the AG to initiate an action will take some time. This potential time lag is the reason for this legislation.

Mr. Burns explained the DOF is seeking a change that would allow an administrative order to temporarily freeze endowment care cemetery trust funds in cases where trust funds are being misapplied or misappropriated. The freeze would last no more than 90 days and would provide the DOF with an opportunity to work with the AG or the cemetery to resolve the potential violations of the Act.

Mr. Burns said the DOF would like to amend the bill as there is a need to eliminate any ambiguity associated with the current wording and identify when exactly a freeze order issued by the DOF would expire. This realization of this ambiguity was clearly identified sometime after the bill was on the House floor.

MOTION: **Senator Anthon** moved that **H 118** be referred to the 14th Order for amendment. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 25464 **Relating to Upgrade to High Risk Reinsurance Pool.** **Dean Cameron**, Director, Department of Insurance (DOI), said the purpose of this bill is to amend existing law to allow for individuals with high risk medical conditions and their dependents who are enrolled in individual health benefit plans to be reinsured through the Idaho Individual High Risk Reinsurance Pool. Current pool enrollment consists only of individuals and dependents who were unable to obtain health insurance due to a health condition and who had enrolled in one of five standardized plans. These standardized plans are no longer feasible, so the bill proposes a different method to continue to utilize the pool as a reinsurance mechanism (while grandfathering coverage for current pool enrollees) that will help stabilize the individual health insurance market in Idaho, encouraging insurers to continue to offer individual health benefit plans to Idaho consumers.

Mr. Cameron stated there is no direct fiscal impact to the General Fund or any other State fund or expenditure. However, allowing for reinsurance of high risk individuals will act to stabilize the individual insurance market, increasing the likelihood that Idahoans will continue to have a robust choice of insurers and health plans, which will foster competition and tend to lower health insurance premiums. Each carrier would be required to pay an assessment in the event there were more claims than revenue.

Vice Chairman Guthrie stated he had a conflict of interest pursuant to Senate Rule 39 (H), that he serves on the High Risk Reinsurance Pool Board.

MOTION: **Senator Guthrie** asked for unanimous consent to send **RS 25464** to a privileged committee for printing. **Chairman Patrick** asked if there was opposition to the unanimous consent request. There were no objections.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:07 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary