

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, February 14, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Agenbroad, Senators Martin, Lakey, Guthrie, Thayn, Souza, and Burgoyne

ABSENT/ EXCUSED: Senator Ward-Engelking

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.

HONORING OF PAGE AND INTRODUCTION OF NEW PAGE: **Chairman Patrick** honored Page Sebastian Griffin. He asked him to tell the Committee what he learned. **Mr. Griffin** stated he planned on going on his Latter-day Saints mission to San Bernardino, California. Following that, he hopes to attend Brigham Young University and major in finance. He plans on pursuing a master's in business administration and a law degree. He presented all of the senators with a framed picture, mentioned what he learned from each Senator, and thanked the Committee for making being a page such a great experience.

The new page will be introduced at the next meeting.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of January 31, 2019. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1070 **Relating to Disability Retirement.** **Senator Lakey** stated this legislation clarifies an ambiguity regarding individuals who have received a disability retirement in the Public Employee Retirement System of Idaho (PERSI) for medical or other reasons. PERSI is currently applying the statute in a way that prohibits individuals who are deemed "disabled" under PERSI from volunteering or working for nominal compensation. Being able to volunteer or perform nominal work is beneficial to the community and to these individuals, especially for those who may have a terminal illness. This amount of allowable compensation mirrors similar provisions from other states. This also provides that the PERSI Fund will be protected, as any amount earned from the nominal employment is deducted from the benefit paid to the individual by PERSI.

Senator Lakey reported this legislation is not anticipated to have a significant fiscal impact. Any nominal compensation received from employment is deducted from the benefit paid under PERSI. It is not anticipated to have an impact on participation in PERSI disability retirement. There is the potential for minor increases and decreases in participation, but those net impacts cannot be estimated at this time.

DISCUSSION: **Senator Burgoyne** thanked Senator Lakey for this bill and said he honors those who want to work and who may want to work themselves off of disability.

TESTIMONY: **Tony Smith**, Idaho Public Employees' Association, testified in support of the legislation and thanked the Committee.

Nick Schlader, retired police officer, testified in support of the legislation. He reported he was diagnosed with stage four cancer and was medically retired from the police force. He stated he went through numerous clinical trials in search of a cure. He contacted PERSI and asked if he could coach basketball part-time. He was told he could work up to 20 hours per week and not lose his disability. He lost his medical retirement in January 2018 because PERSI did not ultimately approve his part-time job. He was not able to work which was a massive financial burden. He subsequently was hospitalized for 21 days and not expected to live. Eventually he got better. He came to an agreement with PERSI to have his benefits reinstated. In order to reinstate his benefits, he had to sign a letter saying he was at fault and knew he was at fault. He met Senator Lakey who decided to sponsor this bill. He stated he did not want this to happen again to anyone else. He remarked it was only fair that an opportunity for a second chance be provided without sacrificing the entire benefit.

DISCUSSION: **Senator Souza** thanked Mr. Schlader for his testimony. She inquired as to whether the benefits were returned retroactively after being withheld. **Mr. Schlader** reported the \$15,000 was not retroactive. His dream is to help others so they can fight and beat cancer as he has. The way the law is currently written, he cannot help people. **Senator Lakey** requested this bill be sent to the 14th order for revision.

MOTION: **Senator Guthrie** moved to send **S 1070** to the 14th Order of Business for possible amendment. **Vice Chairman Agenbroad** seconded the motion. The motion carried by **voice vote**.

S 1053 **Relating to the Barbers and Cosmetology Services Act.** **Senator Guthrie** reported this legislation will provide for apprenticeship opportunities for barbering and barber-styling professions. These changes will be consistent with the changes made for cosmetology during the last session. This bill provides a different pathway to licensure for barbers by completing hours under the guidance of a licensed barber, as opposed to a school. An apprentice must be in compliance with the Idaho Bureau of Occupational Licenses (IBOL) Board's rule and have immediate personal supervision by a licensed instructor. Documentation of hours and the type of instruction must be recorded on a daily basis.

TESTIMONY: **John Foster**, representing the Opportunity Solutions Project, which is the lobbying arm of the Foundation for Government Accountability, testified in support of this bill. He commented this bill removes barriers to entering the workforce. This bill makes it easier for those who want to work.

MOTION: **Vice Chairman Agenbroad** moved to send **S 1053** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1006

Relating to the Uniform Securities Act. Jim Burns, Securities Bureau Chief, Idaho Department of Finance (IDOF), reported this legislation is needed to adapt the statute to numbering changes in federal statute. It is also needed to retain authority for the IDOF to continue to require certain securities issuer filings and fees that were affected by federal preemption and rules passed by the U. S. Securities and Exchange Commission (Attachment 1).

Mr. Burns indicated if the IDOF is unable to effect this statutory change, the IDOF estimates that approximately 300 issuer filings may be affected, resulting in an estimated loss of revenue in an amount not greater than \$20,000. Failure to make this change may also deny Idahoans ready access to information regarding the issuers.

MOTION:

Vice Chairman Agenbroad moved to send **S 1006** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1012

Relating to Public Works Contractors. Patrick Grace, Idaho Damage Prevention (IDP) and Public Works Contractor's Licensing (PWCL), Idaho Division of Building Safety (IDBS), reported Idaho Code § 54-1908 requires the Idaho Public Works Contractor's License Board (IPWCB) to "hold not less than four regular meetings each year, on a day not later than the fifteenth day of the month in each of the months of January, April, July, and October." Many state boards are only required to hold two meetings per year. The IPWCB has found it difficult to coordinate four meetings per year within strict timeframes, especially in years in which the IPWCB must hold additional special meetings for statutorily mandated purposes. Additionally, Idaho Code § 54-1905 requires the IPWCB to be composed of eight members. Idaho Code § 54-1908 requires four members for a quorum of the IPWCB.

Mr. Grace stated this legislation will change the number of meetings the IPWCB must hold from four per year to two per year and remove the requirement that the IPWCB meet by the fifteenth day of specific months. This legislation will also change the quorum requirement from four members of the IPWCB to a majority. Changing the quorum requirement will help ensure the actions of the IPWCB are more representative of the desires of the entire IPWCB and make it less likely that the IPWCB's votes will result in a tie.

There will be a positive fiscal impact to the IDP and the PWCL Fund.

MOTION:

Senator Thayne moved to send **S 1012** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

DISCUSSION:

Vice Chairman Agenbroad queried if the original language was outlined as to when the IPCWB met. He remarked the language does not specify meeting dates. He queried what if the IPCWB decided to have two meetings back-to-back. **Mr. Grace** remarked practices are not going to change. Sometimes there was nothing on the agenda, but the IPCWB met anyway. **Vice Chairman Agenbroad** inquired as to how many members it takes to have a majority. **Mr. Grace** said five members had to be present.

VOICE VOTE:

The motion to send **S 1012** to the floor with a **do pass** recommendation carried by **voice vote**.

S 1036

Relating to Underground Facilities Damage Prevention. Patrick Grace, Idaho Damage Prevention (IDP) and Public Works Contractor's Licensing (PWCL), Idaho Division of Building Safety (IDBS), reported that under Idaho Code § 55-2211(1), the administrator of the IDBS recommends and the IDP Board imposes training or civil penalties for those who violate Idaho Code § 55-22. This process has proven to be inefficient for the alleged violator, complainant, and IDBS. This legislation will give the administrator authority to impose training or civil penalties and the IDBS authority to hear appeals regarding training or civil penalties imposed. These changes will streamline this process and align it with the process for other chapters administered by the IDBS.

Mr. Grace reported Idaho Code § 55-2211 provides authority for the IDP Board to impose training or civil penalties and enhanced civil penalties for subsequent violations with facility damage. However, Idaho Code § 55-2211 does not allow passage of a certain amount of time to "reset" the violation record of a violator unless the violations involve facility damage. Further, Idaho Code § 55-2211 does not provide penalties for third, fourth, and fifth violations without facility damage.

Mr. Grace stated that Idaho Code § 55-2211(1) allows the IDP Board to impose training for a first violation and civil penalties for further violations. However, this same section of code only allows an alleged violator to contest the imposition of civil penalties. Because the imposition of training potentially affects an alleged violator's future liability under the statute, due process requires that alleged violators be given the ability to also contest the imposition of training. This legislation will allow an alleged violator to contest both training and civil penalties.

Mr. Grace indicated there will be a positive fiscal impact to the IDP Board fund created by more efficient processing of civil penalties.

DISCUSSION:

Senator Guthrie commented he could not support the bill because it appears there is a fine levied before the appeal hearing. Additionally, the fine could be increased after the hearing. **Mr. Grace** stated an appeal bond was the only thing requested, or a fine of \$200 or less prior to the appeals hearing. **Senator Burgoyne** stated he agreed with Senator Guthrie and he voiced a concern over whether the fee was constitutional prior to the hearing. He remarked he has never seen a case where the appellant can be punished with a harsher fine after an appeal. He said he was not in support of the bill.

Mr. Grace explained the IDP Board stated the requirement to pay the fine or do the training were options. The IDP Board believed the IDBS should have authority to complete the discipline. Currently, that is the way other trades appellate processes work and the IDBS borrowed the language. **Senator Guthrie** remarked there should be a window of time to appeal. **Senator Lakey** stated he was surprised to hear this practice is in place with the other boards.

Senator Burgoyne noted the way the language is written in this bill, the alleged violator pays, but if the appeal is won, the alleged violator can receive a refund. If the alleged violator does the training while waiting for the appeal, there is no way to recover the time spent on training.

MOTION:

Senator Burgoyne moved to hold **S 1036** in Committee. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:29 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary