

MINUTES
SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Thursday, March 17, 2022

TIME: 1:30 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 to order at 1:15 p.m. **Chairman Patrick** announced some of the items on the agenda would be heard out of order due to the schedules of some of the presenters.

H 499 **PERSI - Amends existing law to provide police officer member status to emergency communications officers. Representative Chaney** reported Idaho emergency dispatchers were not eligible to retire until they reached the Rule of 90 within the Public Employee Retirement System of Idaho (PERSI), meaning their age plus years on the job equaled 90. The position of an "Emergency Communications Officer" required these officers to be certified in Idaho's Peace Officers Standards and Training (P.O.S.T.) Dispatchers worked the same hours as patrolmen and experienced similar stress and trauma from taking emergency calls. Dispatchers must have the ability to multi-task and think critically, while working long hours in order to respond effectively for the Idaho public.

Representative Chaney reported the purpose of this legislation was to include Idaho's dispatchers into the PERSI's Rule of 80 system to retain and incentivize law enforcement frontline workers.

Representative Chaney referenced there were roughly 580 budgeted dispatch positions in Idaho with wages ranging from \$12 to \$23. The ongoing cost to PERSI would be approximately 5.2 percent of total dispatcher payroll. There would be no cost to the General Fund because this legislation increased the contribution rate for both the employee and the employer. Determining the accurate dollar figure related to this increase based on the total number of dispatchers was difficult as city, county, and state payrolls had to be factored in. The majority increase was covered by increased employee contributions.

DISCUSSION: **Chairman Patrick** and **Representative Chaney** discussed the qualifications for the Rule of 80 and credit for the Rule of 90. **Representative Chaney** affirmed those who qualified for the Rule of 80 received credit for the Rule of 90.

TESTIMONY: **Kieran Donahue**, Canyon County Sheriff, testified in support of the bill. He noted dispatchers were critical employees who had a very stressful job. He said even though there had been discussions about costs for PERSI, those costs would be realized later on. He stated retaining experienced dispatchers was crucial.

Cortney Lyskoski, dispatcher, Ada County Sheriff's office, testified in support of the bill. She reported she and co-workers had saved lives. She said the dispatcher job was good, but employees had to be ready and sharp. This was a very stressful job and first responders should qualify for retirement benefits.

MOTION: **Senator Ward-Engelking** moved to send **H 499** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**. Senator Riggs voted nay.

MINUTES APPROVAL: **Senator Agenbroad** moved to approve the Minutes of March 8, 2022. **Senator Riggs** seconded the motion. The motion carried by **voice vote**.

H 762 **BARBER AND COSMETOLOGY SERVICES - Amends existing law to provide for natural hair braiding without a license.** **Senator Den Hartog** stated this legislation created a cosmetology licensure exemption for a person to practice natural hair braiding services in Idaho. The bill removed unnecessary cosmetology license barriers and red tape to Idahoan entrepreneurs serving their community.

Senator Den Hartog remarked this legislation had no impact on the State's General Fund, or any dedicated, or federal fund. No fee schedules were added to the Idaho Division of Occupational and Professional Licenses (IDOPL) dedicated fund.

MOTION: **Senator Lakey** moved to send **H 762** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 703 **HOMEOWNER'S ASSOCIATION ACT - Amends, repeals, and adds to existing law to reestablish the Homeowner's Association Act.** **Representative Nilsson Troy** noted this legislation combined all Idaho Code related to Homeowner's Associations (HOA)'s into a single new Chapter and Title, provided for meetings and financial disclosures, and provided for legislative intent to protect the rights of current and future property owners within an HOA. She provided a color-coded version of the bill (Attachment 1).

Representative Nilsson Troy indicated there was no expense to the General Fund or any other funds. Many of the sections were already in code. The additions pertained to HOA Board meetings and additional financial transparency for HOA's.

DISCUSSION: **Vice Chair Souza** referred to the colored-coded version of the bill and asked Representative Nilsson Troy to go over the changes.

Chairman Patrick asked if political signs could be placed on private property within an HOA. **Representative Nilsson Troy** remarked that law was changed a couple of years ago and political signs were allowed.

Senator Lakey and **Representative Nilsson Troy** discussed executive sessions and how this bill made it very clear what executive sessions could cover.

TESTIMONY: **Kevin Zazio**, representing himself, spoke in support of the bill. He said this bill brought a lot of clarity.

Burt Willie, Attorney, Community Association Institute, testified in support of the bill. He stated he had worked with Representative Nilsson Troy in the crafting of this bill.

DISCUSSION: **Senator Lakey** and **Mr. Willie** discussed the idea that an HOA board could not use its power to adopt rules governing the common property to expand the provisions of the restrictive covenants as they related to a member's property.

TESTIMONY: **Brindee Collins**, Attorney, Idaho Community Association Institute, testified in support of the bill. She stated the bill showed best practices of what an association needed to do. Rulemaking authority came from the declaration or the restrictive covenants, with rules being made if the restrictive covenants permitted that and only those terms to which the association was empowered. This legislation clarified that HOA boards that only have the rulemaking authority to govern the common areas could not use those rules to apply them to private property without the authority to do so in the covenants.

DISCUSSION: **Vice Chair Souza** discussed with **Ms. Collins** changing the Covenants, Conditions and Restrictions (CC&R's) and could only be changed by a two-thirds or 75 percent vote of the lot owners. **Ms. Collins** noted in the instance where an HOA only authorized its board to adopt rules governing the common area, the HOA Board did not have the authority to fill in, tailor, or expand the restrictive covenants in any way.

MOTION: **Vice Chair Souza** moved to send **H 703** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 589 **PERSI - Amends exiting law to add juvenile detention officers, juvenile probation officers, and adult misdemeanor probation officers to the list of police officer members eligible for retirement purposes.** **Senator Cook** reported the purpose of this legislation was to add juvenile detention, juvenile probation, and adult misdemeanor (Peace Officer Specialized Training (P.O.S.T.) certified officers to the Rule of 80 retirement plan.

Senator Cook stated this legislation had no impact on the State's General Fund, any dedicated or federal fund. This proposal demanded an increase of contribution by each individual employee of less than \$1,000 per year, and a contribution by the county of \$161.82 per new employee receiving the Rule of 80 benefit per year. He referred to his handout entitled **H 589** Rule of 80 Fast Fact Sheet (Attachment 2)

DISCUSSION: **Senator Burgoyne** and **Senator Cook** discussed Attachment 2 with **Senator Cook** noting the figures were annual and the counties were very supportive.

TESTIMONY: **Brian Walker**, Idaho Association of County Juvenile Justice Administrators, testified in support of the bill. He stated the County commissioners were supportive. All officers had to be P.O.S.T. certified. He explained juvenile detention was the last stop for many offenders.

Leslie Duncan, Kootenai County Commissioner, testified in support of the bill noting she dealt with felony clients who had their charges reduced to a misdemeanor as part of a plea deal. Some of those clients were very difficult to deal with.

DISCUSSION: **Senator Guthrie** queried why **H 589** and **H 499** were not combined into one bill. **Senator Cook** indicated there was an attempt to combine the two bills but due to a formatting issue on page 1, the decision was made not to combine the bills.

Senator Burgoyne noted when two bills had a formatting issue, the Legislative Services Office would reconcile the language before the legislation was placed into law.

MOTION: **Senator Burgoyne** moved to send **H 589** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

H 583 **DIGITAL ASSETS - Adds to existing law to provide for classification of digital assets, to provide for purchase and sale of digital assets, and to provide for perfection by possession or control of digital assets.** **Representative Manwaring** stated the purpose of this legislation was to define the legal status of digital assets, classify digital assets as personal property, and specify rights of purchase, possession, and control. He cited an example of the truckers in Canada who were to be paid in digital currency, but the country declared that cryptocurrency was worthless, so they were not paid. He noted this bill was trying to lay the groundwork to protect the rights of people.

Representative Manwaring remarked there was no fiscal impact to the General Fund, any dedicated fund, federal grants, or impact to local funds because no expenditure from these accounts was required. This did not modify any State budget or personnel authorizations.

DISCUSSION: **Vice Chair Souza** remarked she thought digital assets was something the government could not get involved in and was wondering why Canada cut off digital assets. **Representative Manwaring** stated people were using a specific platform and it could be turned off along with any storage.

Chairman Patrick queried what was the value of digital assets. **Representative Manwaring** indicated digital assets were between two people. There were places who now accepted digital assets and would convert it into other forms. **Chairman Patrick** and **Representative Manwaring** discussed that whether the government backed cryptocurrency, it was going to exist and it was a personal property right. **Chairman Patrick** stated he would be willing to discuss rules when they were brought forth.

Senator Agenbroad remarked he liked the idea of legislation relating to digital assets. There was no system to establish value but wondered if the word "or" inserted at the bottom of page 1 and on page 2, lines 1 and 2, would make a difference in defining digital assets. He noted that in order to be considered digital currency, according to these lines, all of those items had to be listed. **Representative Manwaring** remarked the current language

was more appropriate.

Senator Burgoyne referred to page 3 of the bill and queried if the section was analogous to the idea of bearer bonds or similar instruments where simply possessing them was sufficient as opposed to possessing a dollar bill. **Representative Manwaring** discussed recognizing someone who possessed the asset of a dollar bill, that they possessed a security interest without doing anything else. **Representative Manwaring** remarked there may be future legislation related to how to take a security interest in a digital asset for lending purposes or other commercial transactions. They discussed possession of a digital asset and if a person had the key, they possessed the asset.

TESTIMONY: **Zach Forster**, Government Affairs Director, Idaho Bankers Association, testified in support of the bill. He noted it was important to start the process of how to handle digital assets.

DISCUSSION: **Senator Burgoyne** and **Mr. Forster** discussed digital asset legislation in other states and how it related to other legislation.

TESTIMONY: **Ryan Fitzgerald**, Northwest Credit Union, testified in support of the bill. He stated it was a good first step for the State in order to establish basic property rights.

MOTION: **Senator Guthrie** moved to send **H 583** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

H 610 **COLLECTION AGENCIES - Amends existing law to revise certain requirements for collection agencies and applicants for licensure.** **Anthony Polidori**, Deputy Director, Idaho Department of Finance (IDOF), stated this proposed legislation added a provision to allow collection agencies to collect incidental charges included in the contract between the creditor and the debtor. Additionally, the legislation created licensing efficiencies by requiring the use of an electronic system of licensing and allowed for the reinstatement of an expired license. The legislation eliminated a licensing requirement regarding a responsible person in charge of a licensee. He went over the bill section by section noting changes.

Mr. Polidori stated this legislation had no impact on the State's General Fund or to the IDOF State Regulatory Fund - Foundation for International Arbitration Advocacy (FIAA) or federal fund because the application fees collected by the IDOF for licensees or license applicants were not altered. Also, this legislation did not alter the application of the Idaho Collection Agency Act licensing requirements to entities conducting covered activities in Idaho.

DISCUSSION: **Vice Chair Souza** and **Mr. Polidori** discussed the 2014 Idaho Supreme Court case about attorney fees and that the court decided how much they would allow for fees. **Mr. Polidori** explained just because the contract contained a fee for \$1,000, the court could say the attorney could not collect the money simply because it was within the contract. He reiterated that any ancillary fees within a contract could not be collected as a matter of course. Only the principal obligation could be collected and anything expressly authorized by law. An attorney could only be paid for costs incurred or that were reasonable.

MOTION: **Senator Burgoyne** moved to send **H 610** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman Patrick** announced the three gubernatorial appointments scheduled for this meeting would be heard at 8:15 a.m. Friday, March 18, 2022. There being no further business at this time, **Chairman Patrick** adjourned the meeting at 2:57 p.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary