

MINUTES  
**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**DATE:** Thursday, February 22, 2024

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Cook, Senators Lakey, Guthrie, Ricks (Ricks), Foreman, Hartgen, Lenney, Ward-Engelking, and Ruchti

**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 Cook** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 1:31 p.m.

**MINUTES APPROVAL:** **Senator Foreman** moved to approve the Minutes of February 13, 2024. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT VOTE:** **Committee Vote on the Gubernatorial Appointment of McKenzie Kraemer to the Idaho Health Insurance Exchange Board.** **Senator Ruchti** moved to send the Gubernatorial appointment of McKenzie Kraemer to the Idaho Health Insurance Exchange Board to the floor with the recommendation that she be confirmed by the Senate. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

**NOTE:** **Chairman Cook** announced that due to technical difficulties, the Gubernatorial hearing for Lisa Odom was moved to later on the agenda.

**H 428 EMPLOYMENT SECURITY LAW - Amends existing law to adjust the desired fund size multiplier.** **Jani Revier**, Director, Idaho Department of Labor (DOL), explained this legislation adjusted the desired fund size multiplier from 1.3 to 1.2 to temper the increase in unemployment insurance tax rates for calendar year 2024 (Idaho Code § 72-1350(3)). Without adjusting the multiplier, a large tax increase would normally occur after three years of frozen tax rates. Reducing the desired fund-size multiplier lowered future rates. **Ms. Revier** explained the legislation reduced the multiplier from 1.3 to 1.2, resulting in a \$44 million net savings to employers in the first year. At the end of five years, the reduced multiplier provided an estimated \$117 million in tax savings. The new multiplier of 1.2 established a target reserve balance equivalent to 14.4 months of benefit payments at levels similar to the Great Recession. She noted lowering the multiplier had no impact on the General Fund. The DOL incurred a one-time cost of \$72,000 for administration, that included rate reprogramming, mailing supplies, and postage. That amount was covered within existing appropriation, so no additional spending authority was needed.

**Ms. Revier** reported the unemployment insurance program was a federal-State partnership based on federal law, but administered by State employees under the Idaho Employment Security Law. Unemployment Insurance (UI) benefits were funded through a tax on employers, collected by the DOL and placed in a Federal Trust Fund (TF). **Ms. Revier** stated money in the TF could only be used for unemployment benefits. A business' UI tax rate was set by Idaho Code. An experience-rated employer's tax rate started at the standard or new employer tax rate, which could not be less than 1 percent of taxable wages.

An employer's tax rate either decreased or increased over time based on the employer's history or experience with the UI program and the taxes paid inversed the benefits paid out to employees. Most government entities and some businesses may elect to be cost-reimbursed where they paid the actual cost of the benefits rather than paying into the TF on a quarterly basis.

**Ms. Revier** commented this legislation changed the tax formula for experienced-rated employers. Idaho Code § 72-1350 established the UI tax and defined how it was calculated. This formula took into account the current balance of the UITF and the amount of revenue needed to maintain a balance that provided for 15.6 months of benefits based on past experience. This formula created the base tax rate. She stated the high-cost years were 2003, 2009, and 2010. Next year 2003 rolled off and 2011 became a factor, and barring a major disruption, the Great Recession years were the high-cost benefit years for the foreseeable future. The desired fund size-multiplier was set by law and currently was 1.3, 30 percent more than what was necessary to sustain benefits through the average of the three years where the most in benefits paid compared to total wages.

**Ms. Revier** outlined why the DOL proposed the change. After three consecutive years of the base tax rate at 0.726 percent, the 2024 rate had increased to 1.231 percent, which was a 70 percent increase. Two years ago, the base tax rate was frozen at 2021 levels to prevent a steep increase followed by a sharp decline as a high-cost year rolled off and the formula reset. **Ms. Revier** noted, however, at that time the DOL did not anticipate the significant wage growth that occurred in the last few years. This significant wage growth meant the DOL did not collect enough to cover 15.6 months of benefits for the growing taxable wage base and the formula was forcing a catch up. Decreasing the multiplier lowered the target balance of the UITF. Since coming out of the Great Recession, Idaho took a very conservative approach to ensure the solvency of the UITF. Idaho was currently among the top ten states for TF solvency. There was a balance to be made between TF solvency and collecting more tax than necessary. The DOL believed that decreasing the multiplier from 1.3 to 1.2 did not threaten the UITF solvency, and provided a 20 percent tax cut to Idaho businesses.

**DISCUSSION:** **Senator Ruchti** asked about the increase in the multiplier. **Ms. Revier** stated the multiplier was increased because the DOL thought 1.3 was enough. She noted the UITF was very solvent and with this increase there would be 20 percent more in reserves, which was more than the UITF had in the Great Recession.

**TESTIMONY:** **Sean Schupack**, Director of Government Affairs, Idaho Association of General Contractors, testified in support of this bill. He noted industry was in support because it lowered unemployment insurance rates and maintained the integrity and solvency of the TF.

**MOTION:** **Senator Guthrie** moved to send **H 428** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**AT EASE:** **Chairman Cook** stated the Committee would go at ease until the technical issue was resolved.

**CALLED TO ORDER:** **Chairman Cook** called the meeting of the Committee back to order at 1:47 p.m.

**GUBERNATORIAL APPOINTMENT:** **Committee Consideration of the Gubernatorial Appointment of Lisa Odom of Coeur d'Alene, Idaho, to the Idaho Health Insurance Exchange Board, to serve a term commencing November 27, 2023 and expiring April 10, 2023.** Ms. Odom gave a brief overview of her background. She noted she was a general outpatient pediatric doctor with a variety of experience. She stated she could bring a different perspective after serving in some of the rural and remote communities.

**DISCUSSION:** **Chairman Cook** asked Ms. Odom what was her biggest challenge. **Ms. Odom** stated she was learning about business, including fiscal years, costs, and overhead and had much to learn.

**Chairman Cook** stated the vote would take place at the next meeting.

**S 1297** **LIENS OF MECHANICS AND MATERIALMEN - Amends existing law to revise provisions regarding the release of certain liens.** **Senator Lakey** explained this bill proposed a change to Idaho Code, Chapter 5, Title 45 that governed mechanics liens to reflect industry best practices. Specifically, this set a time certain that the lien be enforced within six months of filing, to ensure consistency and predictability for all parties involved. **Senator Lakey** stated this legislation caused no additional expenditure of funds at the State or local level of government, nor did it cause an increase or decrease in revenue for State or local government. He noted the property owner or contractor had to post a bond in the amount of one-and-a-half times the cost of the lien. In the past, a bond had been used as a substitute for the lien. This bill amended the release portion of a lien when a bond was posted. This bill further connected the bond and the application.

**MOTION:** **Senator Foreman** moved to send **S 1297** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

**S 1315** **PERSI - Amends existing law to provide for the reemployment of certain retired members under certain circumstances.** **Senator Guthrie** reported this bill was related to PERSI and the re-employment of retired members. He explained that in last year's session S 1054 was passed which allowed police and firefighter members to retire after age 50, begin drawing PERSI, then return to work after 30 days. Retirees were coming back to the same job, making the same pay, while drawing PERSI retirement.

**Senator Guthrie** remarked he believed the original intent was for that retiree to be available for a different needed position within fire and law enforcement communities. He noted it was his understanding that the PERSI actuaries factored in additional rate increases based on the effects of S 1054. Younger employees experienced rate increases with limited or no chance for moving up, while upper level management employees drew retirement while working in those same upper level jobs.

**DISCUSSION:** A lengthy discussion ensued among the Committee members. The discussion included the timing for an actuarial report, the fact there were 19 retired officers who took advantage of this law by collecting PERSI benefits, returning to their same job, and making the same salary, which did not open up opportunities for others, the effect on employee morale, whether to appeal S 1054 from 2023, the placement of sideboards on this bill, and sending the bill to the 14th Order for possible amendment.

**TESTIMONY:**

**Rob Shoplock**, Professional Firefighters of Idaho, testified in support of the bill. He remarked no firefighters took advantage of the program. He stated the lowest paid members were paying an additional \$300 a year into PERSI. He stated the burden was placed on the lowest paid employees.

**Mike Hampton**, Executive Director, PERSI, and **Senator Lakey** discussed the timeframe to have an internal actuarial analysis performed to examine the Code. They discussed the utilization number was higher than the number initially projected. **Mr. Hampton** explained the intent was to look at the utilization number on a yearly basis and to plan how PERSI needed to move forward.

**DISCUSSION:**

**Senator Ruchti** expressed concerns over how many employees stayed in a position at the time of retirement and who were rehired. **Senators Ward-Engelking** and **Hartgen** expressed concerns about how the lowest paid employees were paying for those who received benefits in retirement and the positions were not filled when someone retired, and they were rehired.

**Senator Guthrie** stated it was important to look at something different, such as the sunset clause, putting sideboards on this bill, amend the bill, or repeal it. He handed out a page listing possible amendments (Attachment 2).

**Senator Lenney** stated it was his understanding that some employees were forced into retirement. He was not comfortable repealing the bill passed last year, but was interested in seeing sideboards.

**Senator Lakey** stated he did not support a repeal. Instead, he wanted to see law enforcement and firefighters meet to obtain consensus. He was not supportive of sending this bill to the amending order.

**Senator Ward-Engelking** stated she was in support of sending this bill to the amending order to place sideboards on it.

**Senator Foreman** remarked he wanted to try to salvage the bill. He asked the bill be held so interested parties could meet to come up with good ideas rather than sending it to the 14th Order for possible amendment.

**Senator Guthrie** stated he was comfortable with this bill being sent to the amending order. He did not want it held in Committee. This bill was simple to amend.

The Committee discussed whether to put sideboards on this bill, send it to the 14th Order for possible amendment, hold the bill in Committee, or not have the program at all. **Mr. Hampton** stated he could have the information on rate increases available for the Committee soon. He reported the new PERSI rates would go into effect July 1, 2024.

**Chairman Cook** stated that with no objections, **H 429** would be held in Committee at the Call of the Chair, until Thursday, February 29, 2024. There were no objections.

H 429

**PERSI - Amends existing law to provide that a purchase of membership service shall be made within 90 days prior to the date of retirement.** **Mike Hampton**, Executive Director, Public Employee Retirement System of Idaho (PERSI), stated Idaho Code § 59-1363 did not provide for a specific time frame when a purchase of membership service could be enacted. Administrative Rule 59.01.01.626 defined that a member may request the cost of a purchase of membership service within 90 days before a member's effective date of retirement. He noted that while the current rule was effective and consistent with the past practice of PERSI, the statute was silent on the time frame and should be in law. **Mr. Hampton** explained the purchase of membership service allowed vested members to purchase up to 48 additional months of service at the full actuarial cost of the service. No service could be credited to the member until such time as it was paid in full. To have an actuarially sound determination of the full cost of the months of service being purchased, it must be calculated at the end of a member's career, immediately prior to the effective date of retirement.

**MOTION:**

**Senator Ward-Engelking** moved to send **H 429** to the floor with a **do pass** recommendation. **Senator Hartgen** seconded the motion. The motion carried by **voice vote**.

H 430

**PERSI - Amends existing law to provide for school employee member eligibility for disability retirement.** **Mike Hampton**, Executive Director, Public Employee Retirement System of Idaho (PERSI), explained Idaho Code § 59-1352 Eligibility for Disability Retirement included police officer members, general members, and paid firefighter classes, but did not include the new school employee member class that was initiated in 2022. In 2022 the school employee member class was initiated and all members of this new class were moved from the general member class to the new class. When the new class was established, the defined class name was not added to this section of Idaho Code. **Mr. Hampton** noted all class contribution rates had this benefit factored in, including the new class. All members had access to this benefit when they were in the general member class. This bill corrected the oversight of not adding this new class definition into this section of Idaho Code.

**MOTION:**

**Senator Hartgen** moved to send **H 430** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**

H 431

**PERSI - Amends existing law to revise a provision regarding contributions and investment earnings under supplemental benefit plans and to provide for qualified after-tax contributions.** **Mike Hampton**, Executive Director, Public Employee Retirement System of Idaho (PERSI), stated Idaho Code § 59-1308(9), Supplemental Benefit Plan, established contributions and investment earnings under the PERSI Choice 401(k) Plan shall be exempt from Federal and State income taxes until the ultimate distribution of these contributions. This eliminated the ability to have Roth-type (post-tax) investment options within the PERSI Choice 401(k) plan. He noted that in 2022 the Federal Government passed the SECURE 2.0 Act which required catch-up contributions for individuals who earned over \$145,000 per year to be made via a Roth (after-tax) basis. **Mr. Hampton** stated the amended language allowed for both qualified pre-tax and post-tax contributions to the PERSI Choice 401(k) Plan in compliance with Internal Revenue Code. By updating the Idaho Code to be in compliance with SECURE 2.0, all participants had access to Roth-type investment options.

**MOTION:** **Senator Hartgen** moved to send **H 431** to the floor with a **do pass** recommendation. **Senator Ward-Engelking** seconded the motion. The motion carried by **voice vote**.

**H 432** **PERSI - Amends existing law to establish penalties for the disclosure of confidential member records.** **Mike Hampton**, Executive Director, Public Employee Retirement System of Idaho (PERSI), stated Idaho Code § 59-1316, "Member's Retirement Records Confidential," provided that member records were confidential but did not provide enforcement language in the event of disclosure. The State Tax Commission had this enforcement language in its code and used it to enforce confidentiality and was in motion to quash subpoenas. This amendment added similar language to the PERSI Code. **Mr. Hampton** stated adding this language enhanced the ability to enforce the confidentiality of member records. Additionally, it added additional support to quash subpoenas for confidential information without a court-ordered directive.

**DISCUSSION:** **Senator Foreman** queried if any thought was given to making the penalty a misdemeanor instead of a felony. **Mr. Hampton** stated that PERSI wanted to keep the penalty in line with the Tax Commission due to the fact that PERSI had more confidential information.

**MOTION:** **Senator Ward-Engelking** moved to send **H 432** to the floor with a **do pass** recommendation. **Senator Hartgen** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Lenney** moved to hold **H 432** in Committee subject to the Call of the Chair. **Senator Foreman** seconded the motion.

**DISCUSSION:** **Senator Lakey** stated he was supportive of the concept and supported the substitute motion. **Senator Foreman** reported he agreed with Senator Lakey. He felt the punishment was too severe. **Senator Lenney** agreed especially since there had not been a breach of data.

**Senator Ward-Engelking** stated this bill mirrored the Tax Commission Code. **Mr. Hampton** stated that PERSI had information on everyone and everything. It was important that information be kept confidential in the interest of public safety.

**Senator Ricks** asked how was all of this information kept secure. **Mr. Hampton** stated the system was safe-housed and separate. The facility was secure. **Senator Ricks** asked how would a PERSI employee gain access to this information. **Mr. Hampton** explained there was always a bad actor who could take a picture of a computer screen. The penalty in this bill was another level of deterrence.

**Senator Ward-Engelking** commented it would be troubling to her to have family members' information stolen and that was not the case with an income tax return. It was very important for this information to be secure.

**VOICE VOTE:** The substitute motion to hold **H 432** in Committee subject to the Call of the Chair, failed by **voice vote**.

**VOICE VOTE:** The original motion to send **H 432** to the floor with a **do pass** recommendation, carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairman Cook** adjourned the meeting at 2:58 p.m.

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Senator Cook  
Chair

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Linda Kambeitz  
Secretary