

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, March 07, 2022

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Ricks, Senators Lodge, Lee, Anthon, Thayn, Zito, Burgoyne, and Wintrow

**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 Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

**RS 29572; RS 29644** **RS 29572** and **RS 29644** were both simple rule rejections with a Unanimous Consent to refer them to Senator Vick and the Resources and Environment Committee.

**MOTION:** **Chairman Lakey** moved to send **RS 29572** and **RS 29644** to print. The motion carried by **voice vote**.

**Senator Winder** was not in attendance to present his RS. **Chairman Lakey** asked Senator Lee to present **RS 29745C2**.

**RS 29745C2** **Senator Lee** presented **RS 29745C2** and briefly explained the proposed changes. There were seven members on the Judicial Council. This bill proposed a change to eight when a magistrate judge was disciplined. A permanent member of the Judicial Council would be added as a magistrate judge and then those judge positions would be selected by the Supreme Court. The bar has three positions they appoint, one district judge and two Idaho attorneys. This legislation would remove that appointment and give that seat to the Supreme Court. The district judge and the magistrate would still be confirmed by the Senate. Another proposal for the bar was to send three names for a criminal position and three names for a civil position. This would ensure equal representation on the Council and would allow prosecutors, deputy prosecutors or public defense attorneys to fulfill the criminal role. The time period changed from six years to four years and at the end of the four years, they would be reappointed or renominated with confirmation from the Senate. The Governor did not have the ability to reject a slate, but **RS 29745C2** would give him that opportunity. The Idaho Bar sent out a survey that allowed people to collect information about the applicants, but the applicant had not been allowed to see the responses. This legislation proposed that applicants would have that information and would be able to determine what information was relevant or have the chance to dispute responses.

**MOTION:** **Vice Chairman Ricks** moved to send **RS 29745C2** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**. Senators Burgoyne and Wintrow wished to be recorded as voting nay.

**DISCUSSION:** **Senator Burgoyne** stated he would not support **RS 29745C2** because he felt the current system was working. He mentioned his concern about taking away two legal positions that were nominated by the bar and giving those to the Governor. He stated he feels too much influence was in one place.

**RS 29658C1** **Senator Winder** presented **RS 29658C1**. **Senator Winder** stated this legislation had been written while trying to recognize the importance of personal decisions, and the rights of employers in the State of Idaho.

**DISCUSSION:** **Senator Burgoyne** asked what **RS 29658C1** actually did. **Senator Winder** stated that it established the intent of the Legislature to deal specifically with the coronavirus and the coronavirus vaccinations. It recognized contract rights protected by the U.S. and State constitutions. It also recognized there were employer's rights that needed to be observed and protected. Individuals have certain rights that should not be violated by a forced vaccination. **Senator Winder** explained that a one year pause would be put on this for people who do not, as part of their job requirement, need to get vaccinated. **Senator Burgoyne** added that he was very concerned about micromanaging in the private sector. He felt the courts did a good job of putting limits where they were needed. **Senator Burgoyne** continued he did not understand after all the efforts made by the Legislature to assure the private sector could continue to set the terms and conditions of employment, why the issue was being brought up at that time.

**MOTION:** **Senator Thayne** moved to send **RS 29658C1** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** asked to be recorded as voting nay.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Lee** moved to send the Gubernatorial Reappointment of Matthew Thomas to the Sexual Offender Management Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT:** **The Gubernatorial Reappointment of Dr. Michael Johnston to the Sexual Offender Management Board (SOMB)** to serve a term commencing March 4, 2022 and expiring July 1, 2025. **Dr. Johnston** indicated that he had been on the SOMB since its inception in 2011. He would like to continue to serve and finish the work they were doing. Their focus had been on the Sexual Offender Registry and the possibility of changing it to a care based system and adopting quality of both treatment and evaluations for sex offenders. **Senator Lee** asked what the Legislature could do to help the SOMB. **Dr. Johnston** responded the continued support from the courts, from the attorneys and from the treatment community would help the board to continue their mission.

**GUBERNATORIAL REAPPOINTMENT:** **The Judicial Reappointment of Philip Reberger to the Idaho Judicial Council** to serve a term commencing July 1, 2021 and expiring July 1, 2027. **Mr. Reberger** stated he was a non attorney member of the Council and he had learned much about the legal system during his service. He was anxious to continue to serve and would do whatever necessary to help the people of Idaho have confidence in their judicial system and those who serve there.

**DISCUSSION:** **Senator Lee** asked Mr. Reberger his opinion on the people's ability to choose the judiciary versus having them appointed by the Judicial Council. **Mr. Reberger** stated that he was very comfortable with the process in Idaho and we were lucky to have the best of both worlds. **Senator Wintrow** asked one thing he was proud of in his service. **Mr. Reberger** responded the Judicial Council was very successful in dealing with a relatively small number of discipline problems. **Senator Burgoyne** thanked Mr. Reberger for his many years of service. He added that he had a maturity and ability to see past the moment to longer term issues. **Senator Lodge** asked Mr. Reberger what could be done to recruit more applicants for the judiciary. **Mr. Reberger** responded to provide adequate benefits and compensation, increase the number of judge positions so caseloads were not so high and to encourage recruitment efforts by the bar and the judiciary. He commented it was important to encourage law students to think of becoming a part of the judiciary.

**ADJOURNED:** There being no further business before the committee, **Chairman Lakey** adjourned the meeting at 2:10 p.m.

---

Senator Lakey  
Chair

---

Sharon Pennington  
Secretary