

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 14, 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 Judiciary and Rules Committee (Committee) to order at 1:30 p.m. He announced that voting on the Gubernatorial reappointment of Darrell Bolz would precede the voting on **H 658**.

GUBERNATORIAL REAPPOINTMENT: **Chairman Lakey** said Mr. Bolz was reappointed to the State Public Defense Commission (Commission) and asked him to tell the Committee why he wants to continue to serve. **Mr. Bolz** said he has served on the Commission since its inception in 2014. His main concern was to ensure that indigent defendants have constitutional representation and also to elevate the status of public defenders. He reviewed his resume for the benefit of the Committee. **Chairman Lakey** thanked Mr. Bolz for his service and said voting would take place at a later date.

H 658 **Chairman Lakey** explained that **H 658** was held over from the previous meeting due to time constraints and asked for a motion.

MOTION: **Senator Anthon** moved to send **H 658** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

SUBSTITUTE MOTION: **Senator Wintrow** moved to table **H 658**. **Senator Zito** seconded the motion.

DISCUSSION: **Senator Wintrow** questioned the rules regarding motions. **Chairman Lakey** replied that a tie vote decides nothing, but leaves the situation unchanged. **Senator Burgoyne** explained that tabling is final. **Senator Anthon** said he was perplexed by some of the concerns about the rules and reiterated that a tie vote decides nothing.

ROLL CALL VOTE: **Chairman Lakey** called for a roll call vote on the substitute motion. Voting **aye** were **Vice Chairman Ricks, Senators Zito, Burgoyne, and Wintrow**. Voting **nay** were **Chairman Lakey, Senators Lodge, Lee, Anthon, and Thayn**. The motion **failed**.

ROLL CALL VOTE: **Chairman Lakey** called for a roll call vote on the original motion. Voting **aye** were **Chairman Lakey, Senators Lodge, Lee, Anthon, and Thayn**. Voting **nay** were **Vice Chairman Ricks, Senators Zito, Burgoyne, and Wintrow**. The motion **carried**.

Chairman Lakey said **H 658** will be sent to the floor with a **do pass** recommendation and appreciated everyone's consideration. He announced that due to technical difficulties, the hearing for Dan Dinning would be heard later in the meeting.

S 1360

Relating to Judges. Jason Spillman, Legal Counsel for the Administrative Office of the Courts, presented this legislation. It amends the existing law to revise a provision regarding the salary of the Justices of the Supreme Court. There are four types of judgeships. To accomplish both the budget process as well as the salary statute, a 3 percent plus \$1.25 per hour increase to the current Magistrate Judge's salary was first calculated. This resulted in a \$6,572 salary increase per judicial officer. They have the lowest salary level of all of the judges. The Supreme Court Justice would receive a 4.1 percent increase; a Court of Appeals judge would receive a 4.4 percent increase; a district judge would receive a 4.6 percent increase; and a magistrate judge would receive a 5.0 percent increase. Only the magistrate judge receiving an increase was originally recommended by the governor.

DISCUSSION:

Senator Wintrow inquired if the State kept records to ascertain the problem of salary challenges and recruitment of judges. **Mr. Spillman** said they had statistics that Idaho's salaries for judges were below the level of salaries of judges in states that adjoin Idaho, other than one. Salaries were one identified aspect of getting practicing lawyers to decide to sit on the bench.

Senator Lee asked if it was important to keep the differential in the salaries of the judges. **Mr. Spillman** said the differences had been discussed and they continue to experience problems, particularly at the District Judge level. **Mr. Spillman** said that was something the court wants to look at as part of its process to address all of the recruitment issues.

Senator Lodge said her husband was a former district judge and wished to be recorded as stating a conflict of interest by declaring Rule 39 (H).

MOTION:

Vice Chairman Ricks moved to send **S 1360** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1382

Relating to the Judicial Council. Senator Lee presented **S 1382** and talked about how the Council was structured. The Supreme Court Justice is also the chairman of the Council. It was revised about 50 years ago at the request of legislators and it was the duty of the Legislature to review the provisions as it was State policy. The current statute proposes that the Idaho Bar Commission sends three names to the Senate and the Governor sends three public names. The Senate then determines who will sit on the Judicial Council. This procedure was meant to take the politics out of these important decisions. **Senator Lee** stated the primary responsibility, in her opinion, for the Judicial Council was making sure that the judges were held accountable.

Senator Lee said what she was proposing in this legislation was to add a magistrate position to a permanent appointment on the Council. She also proposed changing the length of the appointment term from six years to four years to align with other commissions and councils.

TESTIMONY:

Janelle Kerrick, Senior District Judge, said she is appearing on behalf of the Idaho Supreme Court. **Judge Kerrick** said the Judicial Council was created in 1967 following collaboration among legislators, attorneys, judges and the public to ensure merit-based screening of judicial applicants for a referral to the governor. This process involved a supplementary committee, a work group, judges, attorneys, and members of the public. The system, together with elections, has produced a judiciary that is recognized nationally for excellence and innovation. **Judge Kerrick** said this bill makes significant changes to the council process and she thanked Senator Lee for identifying her concerns. **Judge Kerrick** said the Supreme Court was supportive of a comprehensive

consideration of these proposed changes and potentially other changes to the structure of the Council.

Chairman Lakey said the question before the Committee is "should we make changes in the makeup of who chooses a council and who chooses our judges." A lot of responsibility is on this Council and it should be more reflective of transparency. He asked for the Committee's support to send **S 1382** to the 14th Order for possible amendments and also thanked Senator Lee.

Senator Thayn said his concern is can this legislation get passed by the end of the session. **Senator Lee** responded by saying she had conversations with the House that has encouraged her that it could pass this session.

MOTION: **Senator Lodge** moved that **S 1382** be referred to the 14th Order for possible amendment. **Chairman Lakey** seconded the motion.

DISCUSSION: **Senator Burgoyne** said more time was needed, more consideration, more reflection, and hearing from more diverse voices. **Senator Lodge** said she was concerned about the recruitment. She also said it was not an easy lifestyle for a judge and his/her family, as she has had a personal experience regarding that matter. **Senator Wintrow's** concern was the appointment process. **Vice Chairman Ricks** was hoping for collaboration and input. **Chairman Lakey** likes the reduction from a six year term to a four-year term.

The majority of the Committee voted in favor of the motion. Voting **nay** were **Senators Burgoyne** and **Wintrow** .

ANNOUNCEMENTS: **Chairman Lakey** said the consideration of the reappointment of Dan Dinning, **H 616** and **H 621** would be heard at the next meeting.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Juanita Budell
Majority Staff Assistant