

MINUTES
HOUSE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Wednesday, March 14, 2018
TIME: 1:30 pm or UPON ADJOURNMENT
PLACE: Room EW42
MEMBERS: Chairman Boyle, Vice Chairman Dayley, Representatives Bell, Miller, VanOrden, Burtenshaw, Kerby, Troy, Stevenson, Amador, Armstrong, Hanks, Zito, Erpelding, Toone

**ABSENT/
EXCUSED:** None

GUESTS: Larry A. Hayhurst, Idaho Brand Board/ISP; Cody Burelile, Idaho Brand Board; Tucker Shaw, ICA; Dennis Stevenson, Rules Coordinator; Kate Haas, Wendell Buying Station; Bob Naerebout, Idaho Dairymen's Assoc; Wyatt Prescott, ICA; Elizabeth Criner, J.R. Simplot Company

Chairman Boyle called the meeting to order at 1:36 p.m.

MOTION: **Rep. Kerby** made a motion to approve the minutes from the February 28, 2018, meeting. **Motion carried by voice vote.**

Candi Fitch, Executive Director of Idaho Apple Commission, explained the winter of 2017 impacted the apple industry resulting in smaller size apples. She said because of this, Idaho had an average size crop and the market was okay. She said in Idaho there are apple blocks continuing to be taken out but new ones put in helping to maintain the current volume of about 1.5 million bushels. With the latest round of cold weather, she stated, the crop seems to be on track with where it was 2 years ago. She explained the grant funding used for in-store demos, radio advertising, billboards, promotional banners and social media advertising. She gave examples of how the commission had used those dollars in each of the mentioned areas of advertising.

Ms. Fitch, Executive Director of Idaho Cherry Commission, reported the Idaho Cherry season went well in 2017 with the shippers able to market their crop at a reasonable price. She said because of the extreme cold temperatures in 2017, some areas were short in production this year. She said a 2015 grant to create awareness of Idaho Cherries was used to hold in-store promotions at various Albertson's and Wal Mart stores the last week of June and first week of July.

Reporting on the Idaho-Eastern Oregon Onion Committee, **Ms. Fitch** said the onions grown in Idaho and Eastern Oregon are grown under Federal Marketing Order #958, which maintains a minimum size and grade standard that exceeds USDA standards. She stated during their shipping season from August to late April or early May, they shipped approximately one billion pounds of onions making Idaho one of the largest onion shippers in the US.

Ms. Fitch, reporting on the Idaho-Oregon Fruit and Vegetable Association, said they provide an effective avenue for its members to collaborate and work collectively on instrumental issues pertinent to the agricultural industry of the area. She said with this organization they are able to get more involved with issues. She explained the two issues dealt with this year were the electronic logging devices and transportation issues with trucking and rails.

Chairman Boyle turned the gavel to **Vice Chairman Dayley**.

**DOCKET NO.
11-0201-1701:**

Larry Hayhurst, Brand Board Inspector, explained the funds needed to perform the Board's regulatory functions and to meet the Governor's recommended budget for FY2017 were inadequate. The Brand Board adopted the temporary rule on October 2, 2017, increasing cattle and horse brand inspection fees to make up this shortfall. He said the Brand Board did everything right in that they held the meeting in May where the DFM approved the Administrative Rule Request which was submitted to the Office of Administrative Rules where it was to be printed in the June Administrative Bulletin. However, they neglected to submit a second document from the Brand Board via the State Police. He said they were then instructed to write a letter to every person who over paid a brand inspection fee from July 1, 2017 through October 1, 2017. The letter was to explain the budget issues and why the temporary rule did not make it into the Administrative Bulletin. He said a refund was also offered through a rigorous advertising campaign, approved by the governor to serve as an appropriate notification of the oversight and the refund option. He stated in the 27 years he has been the Brand Board Inspector, they have never done formal Negotiated Rule making, rather always have done informal rule making. He stated they did not receive any negative feedback from July 1, to October 1, 2017 about the initial fee increase, however after the refund issue came up they received 2 petitions on November 14, 2017 requesting a public hearing which was held on February 15, 2018. He said it should be noted every move the Brand Board made was either recommended or pre-approved by the BFM, the office of Administrative Rules or the Governor's Office.

MOTION:

Rep. Stevenson made a motion to reject **Docket No. 11-0201-1701**.

Dennis Stevenson, Rules Coordinator, explained the consequences of either rejecting or approving the rule before them, clarifying committee members' questions.

Tucker Shaw, President of Idaho Cattlemen Association, and **Bob Naerebout**, Idaho Dairymen Association, spoke **in support** of approving the rule stating the Brand Boards' services are essential to their industry.

Kate Haas, Wendell Buying Station, said they stand **in opposition** to the rule and request the committee reject it. She said they would very much appreciate the opportunity to be part of the Negotiated Rule making process and for their voice to be heard at the table.

Vice Chairman Dayley called a recess of the committee at 2:29 p.m.

Vice Chairman Dayley reconvened the meeting at 3:01 p.m.

Mr. Hayhurst, in response to a committee question, said they were not able to send every individual a letter explaining the refund, but did send one to all accounts and to individuals they had addresses for. He also clarified, the refund was not optional.

**SUBSTITUTE
MOTION:**

Rep. Bell made a substitute motion to approve **Docket No. 11-0201-1701**. Speaking **in support** of the Substitute Motion, she said they all have learned something from this process and she felt there would be no problems in the future from this Board.

Rep. Stevenson speaking to the original motion, said she made the motion to reject the temporary rule because as a pilot, she had been taught the need to follow the checklist. She said the checklist in the rule making process was not followed.

In response to a committee question, **Brad Hunt**, Office of Administrative Rules, stated the Brand Board had not done anything illegal. Everything is in line to move forward. He explained Negotiated Rule making happens on the front end where the rule is vetted and interested parties have a voice. Once the proposed rule is published in the bulletin, the public comments period or requests for a public hearing begins.

Rep. Boyle said her reason for supporting the rejection of the rule is because there is now a Constitutional Amendment. She reminded the committee, they have a responsibility to watch and make sure the process is followed. She said Negotiated Rule making is vital to the process. She said the Brand Board had two petitions for hearings in November but did not hold a hearing until February at the request of the Vice-Chairman and herself.

Vice Chairman Dayley requested a roll call vote on the substitute motion to approve **Docket No. 11-0201-1701. Motion carried by a vote of 8 AYE and 7 NAY. Voting in favor of the motion: Rep. Bell, Burtenshaw, Kerby, Troy, Amador, Armstrong, Erpelding and Toone. Voting in opposition to the motion: Reps. Dayley, Miller, VanOrden, Stevenson, Hanks, Zito, and Boyle.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:46 p.m.

Representative Dayley
Chair

Joan Majors
Secretary