

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 31, 2022

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Guthrie, Senators Winder, Harris, Lee, Heider, Stennett, and Burgoyne

ABSENT/ EXCUSED: Senator Anthon

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: **Chairwoman Lodge** called the Senate State Affairs Committee (Committee) to order at 8:05 a.m.

VOTE ON GUBERNATORIAL APPOINTMENTS: **VOTE ON THE GUBERNATORIAL APPOINTMENT** of John Chatburn to the Idaho Public Utilities Commission.

MOTION: **Senator Harris** moved to send the Gubernatorial Appointment of John Chatburn to the Idaho Public Utilities Commission (PUC) to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

Senator Burgoyne disclosed that he had been interested in the PUC in the past. He also acknowledged Mr. Chatburn's qualifications for this appointment. **Senator Burgoyne** noted that he agreed with the need for the Commission to assure the financial viability of public utilities along with keeping rates as low as possible for the customers.

VOTE: The motion carried by **voice vote**. Senator Harris will be the floor sponsor.

VOTE ON THE GUBERNATORIAL APPOINTMENT of Charles "Skip" Smyser to the Idaho Lottery Commission.

MOTION: **Senator Heider** moved to send the Gubernatorial Appointment of Charles "Skip" Smyser to the Senate floor with the commendation that he be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

PASS THE GAVEL: Chairwoman Lodge passed the gavel to Vice Chairman Guthrie.

DOCKET NO. 40-0000-2100 **IDAPA 40 - COMMISSION ON THE ARTS** - Notice of Omnibus Rulemaking - Proposed Rule - pages 418-423.

Michael Faison, Executive Director, Idaho Commission on the arts explained that **Docket No. 40-0000-2100** (Docket) contains one chapter which had previously been approved by the Legislature during the rules reduction act process two years ago. Fourteen of eighteen pages of rules were removed resulting in an 80 percent reduction and 99 restrictive terms were removed. There are no rule changes this year. **Mr. Faison** asked that the Docket be approved.

MOTION: **Senator Harris** moved to approve **Docket No. 40-0000-2100**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
32-0101-2100F**

IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule - pages 73-77.

Chris Anton, Manager of Investments, Endowment Fund Investment Board, presented **Docket No. 32-0101-2100F** (Docket). This is an existing one rule chapter in this omnibus action that has been reviewed and approved by the Legislature and has been in place since 2010. Small refinements in language have been made in previous years and in conjunction with the Red Tape Reduction Act. **Mr. Anton** also explained the Credit Enhancement Program for School District Bonds which allows eligible voter approved school bonds to be issued with Triple A credit ratings which is above the State's required rating. This program is achieved by a pledge from the Public School Endowment Fund which is administered by the Endowment Fund Investment Board. This is beneficial to the citizens of Idaho because it reduces borrowing costs for Idaho for the construction of schools. **Mr. Anton** asked for the approval of the Docket.

MOTION:

Senator Winder noted that he is a member of the Endowment Fund Investment Board and moved to approve **Docket No. 32-0101-2100F**. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 29263

RELATING TO THE FETAL HEARTBEAT PREBORN CHILD PROTECTION ACT to clarify and amend certain sections of the Act.

Blaine Conzatti, President, Idaho Family Policy Center, explained that **RS 29263** amends the Heartbeat Law which was passed in 2021. This legislation would add a mechanism to allow family members of an unlawfully aborted preborn baby to sue the abortionist for real and statutory damages. **RS 29263** is modeled after a similar Texas law which has successfully withstood three legal challenges at the U. S. Supreme Court. In Texas, it means that abortionists now have very limited recourse to legally challenge the constitutionality of the Texas law. Generally, nearly every Texas abortionist has voluntarily complied with the Texas law.

Mr. Conzatti noted that **RS 29263** departs from the Texas law on two key provisions. 1) This legislation would not create a cause of action to sue someone who aids or abets an abortion such as an Uber driver or housekeeper. 2) Only family members would be granted the ability to create a cause of action for an unlawfully aborted preborn baby. This law is not saying that life begins with the first signs of a beating heart but a detectable heartbeat is a reliable indicator both that life exists, and that a preborn baby will almost certainly make it to term. **Mr. Conzatti** commented that he has been asked why not wait until the Supreme Court rules in the *Dobbs v. Jackson Women's Health Organization* (Mississippi) (*Dobbs*) this summer. First, there is the opportunity to employ the strategy to start saving babies now. Second, even if the *Dobbs* decision returns the issue of abortion back to the states, Idaho's trigger law could still face a lengthy challenge in state courts. **RS 29263** could act as a backstop while those challenges play out.

DISCUSSION:

Senator Stennett said, regardless of the family background of a woman, or whether it could be injurious to a child or the mother, that family would have legal recourse against someone who performed a procedure. **Mr. Conzatti** responded yes, if that abortion was unlawfully performed, a family member could have a civil cause of action to sue the abortionist. **Senator Stennett** asked, in that scenario, if the mother was forced to have this child and was incapable of managing for it, and it ended up in the care of the abusive people, would that be acceptable recourse of this potential law? **Mr. Conzatti** replied in the affirmative. He said they are advocating that it is the policy position of the state of Idaho to protect pre-born life and to respect constitutional and God given rights for women. **Senator Stennett** noted that Idaho has 16,000 children that do not

have parents, the State needs to do a better job. **Mr. Conzatti** commented that those issues need to be investigated with a look toward reforming that system. However, abortion is not health care and it is not a solution to that issue.

MOTION:

Senator Winder moved to send **RS 29263** to print. **Senator Heider** seconded the motion.

Senator Burgoyne said he will be voting no on the motion. He stated he did not disagree with the statement that life begins at conception but the issue is when human life begins. The issue of standing is an important issue here and how the State defines the rights of grandparents, siblings, aunts, and uncles. With respect to born children, it creates a public policy contradiction. There are also issues in the grey areas of probate code and other law relative to rights of family members such as the specific statute governing the rights of putative fathers with respect to illegitimate children. He questioned what the import would be with this legislation. This is not an easy question.

Senator Lee agrees that the standing issue can cause difficulty in other areas of State law. It is early enough the session that there is time to make this right. That someone in an expanded family relationship could have a standing is a difficult piece to accept. **Senator Lee** said she would absolutely support a pro-life bill, but some clarity is needed in this legislation so she can't support this particular matter.

**ROLL CALL
VOTE:**

Vice Chairman Guthrie called for a **roll call vote**. **Senators Guthrie, Winder, Heider,** and **Lodge** voted **aye**. **Senators Harris, Lee, Stennett,** and **Burgoyne** voted **nay**. The motion failed on a **tied vote**.

**PASSED THE
GAVEL:**

Vice Chairman Guthrie passed the gavel to Chairwoman Lodge.

ADJOURNED:

There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:27 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary