

MINUTES
HOUSE STATE AFFAIRS COMMITTEE
BARBIERI SUBCOMMITTEE
Barbieri

DATE: Friday, January 17, 2014
TIME: 9:30 A.M.
PLACE: Room EW40
MEMBERS: Chairman Barbieri, Representatives Luker, Smith
**ABSENT/
EXCUSED:** None
GUESTS:

Dean Gunderson, self; Raeleen Welton, Westerberg and Associates; Mary Bolognino, Homeless Coalition; Shavone Hasse, self; Monica Hopkins, ACLU; Anne Hausrath, self; Barbara Kemp, self; Lois Morgan, self; Richard Eppink, Attorney for ACLU.

Chairman Barbieri called the meeting to order at 9:30 a.m.

DOCKET NO. 38-0406-1301: **Teresa Luna**, Director, Department of Administration, presented **Docket No. 38-0406-1301**. She stated the Pending Rules presented coincide with **H 693**, an emergency clause to promulgate three sets of Rules regarding the interior, and changes to the exterior of the Capitol and Capitol Mall properties. She stated the changes have been made and modifications also made in regards to the definitions in the Rules. She also stated there is an active case in the Idaho Federal Court regarding some of the issues in the Rules. She said the Deputy Attorney General for the Department has advised the Department to not make any changes to the Rules other than what coincides with **H 693** because the Department will be appealing **Judge Winmill's** decision in the near future. She stated she was advised to leave the pending Rules as written in order to use it in the Department's appeal.

In response to committee questions, **Ms. Luna** stated the only outstanding piece of the federal case is the camping statute.

In response to questions, **Clay Smith**, Deputy Attorney General for the Department of Administration, stated there is no trial date set for the camping statute issue but a Summary Judgment has been filed which should be resolved in February. He stated the camping statute was not addressed in the District Court's opinion in June 2013. He also stated the Department is waiting to appeal until the final Order is filed which will be after the camping statute issue is resolved.

DOCKET NO. 38-0408-1301: **Teresa Luna**, Director, Department of Administration, presented **Docket No. 38-0408-1301**. She stated the Pending Rules are a result of the rejected Rules from the 2013 legislative session, which now provide better clarifications of the requirements for use of the State Capitol exterior.

In response to questions, **Ms. Luna** stated the Department has been advised to leave the Pending Rules as written in order to use it in the Department's appeal.

Dean Gunderson, representing himself, stated he is opposed to the Pending Rules because the Court has found them unconstitutional. He also stated the fiscal impact is incorrect as well.

Shavone Hasse, representing herself, stated she is opposed to the Rules for many reasons. She stated she was part of Occupy Boise and explained that there were many shifts to maintain overnight protests but that it was nearly impossible not to sleep. She also stated it doesn't matter what Rules or laws are passed, she and other activists will do whatever they want.

Monica Hopkins, Executive Director, ACLU, stated she is opposed to the Rules because they were deemed unconstitutional by Judge Winmill in the U.S. District Court on December 9, 2013. She stated there are multiple sections of the Pending Rules that should not be approved including the sections on State Events and Exhibits, Permits: Fees and Costs, Public Use Duration, and Liability and Indemnification.

In response to questions, **Richard Eppink**, Legal Director, ACLU, stated the ACLU has a rough estimate of \$100,000 in court costs from the case. He stated that after the case is appealed that number could easily double.

Anne Hausrath, representing herself, stated she is opposed to the Rules because she feels they are unnecessary. She stated the State of Idaho has existed for over 100 years without such Rules and has been fine. She said the State could save time and money that could be spent elsewhere by ceasing to change the Rules.

Barbara Kemp, representing herself, stated she is opposed to the Rules and that there are more than just fiscal costs, but moral and political costs as well. She also stated the Rules have been deemed unconstitutional in Federal Court.

MOTION: **Rep. Smith** made a motion to send **Docket No. 38-0406-1301** and **Docket No. 38-0408-1301** to the full committee without recommendation for further discussion. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:00 a.m.

Representative Barbieri
Chair

Kasey Perkins
Secretary