

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

- DATE:** Thursday, January 19, 2012
- TIME:** 1:30 P.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman Wills, Vice Chairman Luker, Representative(s) Smith(24), Nielsen, Shirley, Hart, Bolz, Ellsworth, Bateman, McMillan, Perry, Sims, Burgoyne, Jaquet, Killen
- GUESTS:** Maj. Kedrick Wills & Matthew Gamette, Idaho State Police (ISP); Jan Sylvester & Sharon Lamm, Peace Officer Standards & Training (POST)/ISP; Holly Kole, Idaho Prosecuting Attorneys Association (IPAA); Dennis Stevenson, Department of Administration
- Vice Chairman Luker** called the meeting to order at 1:30 p.m.
- DOCKET NO. 11-0301-1201:** **Matthew Gamette**, Lab Improvement Manager for the Idaho State Police (ISP), presented **Docket No. 11-0301-1201** regarding Blood Alcohol Testing (BAC). He explained the change to the rule was the addition of the words "at least" to Section 013, subsection 2c. He said "at least" 10 milligrams of sodium fluoride per cubic centimeter of blood is an adequate amount to maintain the evidentiary sample.
- MOTION:** **Rep. Killen** made a motion to approve **Docket No. 11-0301-1201. Motion was carried by voice vote.**
- Vice Chairman Luker** turned the gavel over to **Chairman Wills**. The Chairman noted a correction to Larry Hayhurst's position title on the agenda, "board" should be "brand."
- RS 20809:** **Larry Hayhurst**, State Brand Inspector for ISP, presented **RS 20809**. He explained this is a "house keeping" bill. He then explained that there would be no fee increase to and no power would be taken from the Idaho livestock industry. He said the proposed legislation has received much support from the industry and the Idaho Dairymen's Association. He also emphasized that the Brand Inspector and the Deputy Brand Inspectors can enforce any laws of the state, so it is important for the Idaho State Director of Police to be a part of the decision-making process. He explained, in the past, he has never made any big decisions without going to the director first, and now it is time to make this policy official.
- In response to committee questions, **Mr. Hayhurst** confirmed that the inspectors are POST (Peace Officer Standards & Training) certified and the changes to the rule will have an effect on PERSI status. Mr. Hayhurst also clarified the seeming non-change to the phrase "law-enforcement" was the removal of the hyphen.
- MOTION:** **Rep. Smith** made a motion to introduce **RS 20809. Motion carried by voice vote.**
- RS 20827:** **Sharon Lamm**, Business Operations Manager at POST/ISP, presented **RS 20827**. She stated that this is a proposal to allow POST to collect fees for training equipment and non-POST training. She then explained POST currently collects dormitory room fees and has been doing this without specific statutory authority. She said the proposed legislation is structured to recoup costs of services provided and will allow POST to establish a fee structure for private entities and non-law enforcement institutions. Next, she explained the benefits to entities across the state. This will make academy rooms available for instructors or law enforcement personnel for a fee when in the Meridian area. The fee of \$10/night provides savings to travel and lodging costs and is based on the actual cost of the room. The second major benefit is when agencies notify POST of the training they need, POST arranges these meetings and trainings. The third benefit is that the room costs will be recouped

because of the \$10/use charge. **Chairman Wills** clarified that this is something that has been done in the past and POST will now have statutory authority to do so.

Rep. Killen expressed a concern that the proposed legislation provides the authority to schedule and assess the fees, but doesn't say anything about expending those fees for that purpose. **Ms. Lamm** stated as she understood it, POST has the authority to expend the fees. **Rep. Killen** suggested the RS be sent back to the agency and have that language added. **Ms. Lamm** also confirmed POST is exempt from bed and sales tax.

In closing, **Chairman Wills** recommended **Rep. Killen** and **Vice Chairman Luker** ensure the RS contains the correct language when it comes back to the committee. **Vice Chairman Luker** suggested wording the RS with the following language: funds collected would be deposited in account X, and then account X would be authorized to be spent for purposes of room upkeep.

MOTION: **Rep. Bateman** made an unanimous consent to have **RS 20827** sent back to the agency for changes. **There being no objection, RS 20827 will be returned to ISP.**

RS 20864: **Maj. Kedrick Wills**, ISP, presented **RS 20864**. He explained the purpose of the proposed legislation is to create a requirement for tow truck drivers who contract with the ISP to have criminal background checks through the FBI and ID criminal databases. He added that there is currently no requirement for this.

In response to committee questions, **Maj. Wills** explained he feels the ISP has an obligation to the public to provide a tow truck driver who is not a dangerous criminal. In regards to a possible double-background check requirement between ISP and another agency, **Maj. Wills** stated that if this were to be the case, ISP would not have control over that. **Chairman Wills** clarified and emphasized that the potential overlap in checks would be due to timing and not the requirement itself.

Maj. Wills deferred to **Dawn Peck**, Manager of Bureau of Criminal Investigation, and she answered the remaining committee questions in regards to duplicate background checks. She explained that under federal law 92-544, for purposes of noncriminal background checks, there must be a statute that gives statutory authority to conduct a background check. Furthermore, she explained, as part of the law, the information gathered from that check cannot be shared between agencies.

Maj. Wills returned for questioning and stated that the determining factors for background-check failure would have to be addressed in ISP procedure once the proposed legislation is passed. Furthermore, he indicated there would be an appeals process for the tow truck company to use if they felt the guidelines for the background check were prejudicial.

MOTION: **Rep. Smith** made a motion to introduce **RS 20864**. **Motion carried by voice vote.**

RS 20880: **Rep. Burgoyne** presented **RS 20880**, which would create a third federal district judgeship for the State of Idaho. He explained this Joint Memorial will ask Congress to appropriate money to establish a Third Judicial District Judge in Idaho, based on need. He noted the Federal Court is very efficient court, and very competent court, and is recognized for such. There is an acute need and members of the business community recognize that this is having an effect on our commerce. He added there is a need to have these cases tried in Idaho, rather than sending them to federal courts in other states.

In response to committee questions regarding sending federal cases outside of Idaho, **Rep. Burgoyne** explained it most often happens in the intellectual property context and those cases are being filed mostly in Texas because it is viewed as though Idaho does not have the resources to hear these cases. He added that parties to a federal case may forum shop, and without a federal court in Idaho, we lose the opportunity to have Idaho juries and courts decide our issues.

MOTION: Rep. Killen made a motion to introduce **RS 20880. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:14 p.m.

Representative Wills
Chair

Stephanie Nemore
Secretary