

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 13, 2012
TIME: 1:30 P.M.
PLACE: Room WW54
MEMBERS PRESENT: Chairman Darrington, Vice Chairman Vick, Senators Davis, Lodge, Malloy(McKague), Mortimer, Nuxoll, Bock, and LeFavour
ABSENT/ EXCUSED:

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.

Chairman Darrington called the meeting to order at 1:35 p.m. and recognized Senator Mortimer for a motion of the minutes of February 8, 2012.

MOTION **Senator Mortimer** moved, seconded by **Vice Chairman Vick**, to approve the minutes of **February 8, 2012** as written. The motion carried by **voice vote**.

Chairman Darrington proposed that the eight members of the Sexual Offender Management Board (SOMB) could be confirmed in one motion unless someone wanted to select ones to be handled independently.

MOTION **Senator Bock** moved, seconded by **Senator Nuxoll**, to send the gubernatorial appointment of all eight members, **Dolly Ouita Bedal, Jeffrey A. Betts, Jon Michael Burnham, Shane Lee Evans, Jean M. Fisher, Paula K. Garay, Charles "Chad" A. Huff, Michael David Johnston** to the Sexual Offender Management Board to the floor with the recommendation that they **be confirmed** by the Senate. The motion carried by **voice vote**.

RS 21175 **Relating to Attorney's Fees in Civil Actions.** **Senator Corder** explained this legislation provides a very conservative inflation based adjustment to Section 12-120 (1), Idaho Code. He said this section grants attorneys fees to the prevailing party of a civil action and has not been adjusted since the current \$25,000 was adopted in 1986. This amendment would provide that there shall be taxed and allowed to the prevailing party a reasonable amount fixed by the court as attorneys fees in certain actions where the amount pleaded is \$35,000 or less.

MOTION **Senator Davis** moved, seconded by **Senator LeFavour**, to print **RS 21175**. **Senator Bock** said he thought it was confusing the way it was written. He suggested a more detailed explanation of how this affects specific litigations when it came back to committee. **Senator Mortimer** agreed, saying he was not sure he understood how changing this number would make legal proceedings more available for the normal public. The motion carried by **voice vote**.

RS 21162

Relating to the Idaho Bail Act. David E. Kerrick, representing Professional Bail Agents of Idaho, explained this legislation would require bail agents to collect all of the premium on the surety bail bonds they write at the time the defendant is released from custody. He said this premium is usually ten percent of the face amount of the bond, plus a \$35 agent's fee and a sheriff's fee. It does not prohibit third party financing of the premium. He stated that the effect of this change will be to:

- improve public safety by requiring an investment from the defendant and/or cosigners concurrent with release from custody;
- provide uniformity so the court and law enforcement will know when bail is set what will be required of the defendant seeking release;
- restore the traditional practice of providing bail services.

Senator Malloy asked if the person seeking bail can borrow any money from anybody except the bail bond agent. **Mr. Kerrick** said that was correct. **Senator Mortimer** asked what difference would it make to the court where the money comes from and isn't it the states best interest to keep people out of the jail. **Mr. Kerrick** cited a case from last year of Robert Hall who was accused of murdering a lawyer from Meridian who was having an affair with his wife. The judge set bail at a million dollars and yet after some shopping around, this defendant found a bail agent that would let him out on very lenient terms.

MOTION

Senator Davis moved, seconded by **Senator LeFavour**, to print **RS 21162**. **Senator Bock** would like to have them demonstrate what difference it makes economically and if the risk is the same if they fund the bail or if there is security. **Senator Malloy** said he did not see the distinction and thought it was encroaching on business enterprise. **Senator LeFavour** commented that she understood that having a family member help with the bail money would actually help keep the person from fleeing. The motion carried by **voice vote**.

S 1292

Relating to Execution. Brent Reinke, Director of Idaho Department of Correction, explained this bill is to exempt executions from regulations governing controlled substances and the practice of medicine and pharmacy, to clarify that employees participating in executions are entitled to the protections of the Idaho Tort Claims Act, and to provide that persons participating in executions under this section are not subject to civil or criminal liability for the death of the condemned person. The new language in subsections (2) and (3) is drawn largely from a previous version of the same statute.

Vice Chairman Vick asked how this differed from the previous version. **Director Reinke** said they had made a new section and reorganized it to make it easier to follow. **Senator Davis** said that Idaho Code, Section 19-2716 dealt with the infliction of the death penalty and talked in terms of the procedure and processes of the execution. He further stated that the new section deals with the practice of medicine, the possession of controlled substances, and the liability.

MOTION

Senator Davis moved, seconded by **Senator Mortimer**, to send **S 1292** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

H 402

Relating to the State Brand Board. Larry Hayhurst, Brand Inspector for ISP, explained this would be a "housekeeping" piece of legislation. This legislation puts the Director of the Idaho State Police in an administrative position. The Director would have a handle on training and compliance standards within the Idaho State Police. He said it does not remove power from the function of the Idaho Brand Board in regard to the regulatory protection of the Idaho livestock industry.

Chairman Darrington asked how many sworn officers were in the Brand service. Mr. Hayhurst said they had 30 fully commissioned officers. **Chairman Darrington** asked if these officers, who had been through the POST academy and were involved in a livestock theft investigation, had the same powers of other law enforcement officers. **Mr. Hayhurst** said that was correct, and they couldn't turn their head if they saw a drunk driver since it was a public safety issue. **Chairman Darrington** said it seemed to him that the legislation simply clarified the chain of command right up to the Director of ISP.

MOTION

Senator Davis moved, seconded by **Senator Lodge** to send **H 402** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

There being no further business, **Chairman Darrington** adjourned the meeting at 2:15 p.m.

Senator Darrington
Chairman

Leigh Hinds
Secretary