

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, March 02, 2012  
**TIME:** 8:00 A.M.  
**PLACE:** Room WW55  
**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Fulcher, Senators, Davis, Hill, Winder, Lodge, Malepeai, and Stennett  
**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 McKenzie** called the meeting to order at 8:00 a.m.

**RS21406** RELATING TO PRIMARY ELECTION BALLOTS to combine candidates and issues on the ballots in a Primary Election. **Tim Hurst, Chief Deputy, Secretary of State**, stated last year when the legislation was passed to create the closed primary there was concern that the language in *Section 34-904, Idaho Code*, which states that each ballot and each party would have their own separate ballot will eliminate the need for voters to receive two separate ballots in most instances. If they remove the word "only" in this bill it will allow their County Clerk to just give the poll one ballot. **Senator Davis** asked **Mr. Hurst** what is the turnaround time they are expecting on this legislation to accommodate the County Clerks calendar? **Mr. Hurst** replied that if it is finished by Friday, March 9, 2012, it would allow for the forty-five day lead for absentee ballots.

**Chairman McKenzie** responded that he had no preference between the bill coming back to Committee or going directly to the floor.

**MOTION:** **Vice Chairman Fulcher** moved, seconded by **Senator Lodge**, to print **RS21406** and once printed send the newly printed bill to the Senate floor with a do pass recommendation.

**VOTE:** The motion carried by voice vote.

**RS21354** RELATING TO HORSE RACING to clarify that "Historical Horse Racing" is lawful when utilized by certain entities. **Stan Boyd, Treasure Valley Racing**, explained Treasure Valley Racing is the local company that owns Les Bois Park. Five local investors stepped forward to reopen the facility after three years of closure. This legislation will authorize "historical horse racing" in the State of Idaho. Pari-mutuel wagering, in the State of Idaho, has been lawful since 1961. As technology advances and it brings forth the different forms of pari-mutuel wagering we assumed that it was legal but decided to ask for the Attorney General's opinion. The determination was that a video screen is legal in the State of Idaho and they suggested that legislation be crafted for historical racing.

Historical racing is a past horse race. There is a bank of some 60,000 past horse races. They are brought up on the screen at random without revealing the name of the racetrack, the name of the horses, or the date it was run until the end. It gives the odds of the horses and how many races the horses won in the past so the patron can make an educated guess. It has proved quite successful in Oklahoma and Arkansas. It could be a real boost for the live horse race industry here in the State of Idaho. Les Bois park employs 176 people, both part-time and full time. Last year it ran 15 race days, this year they have applied for 36 days. The estimated economic impact to the Treasure Valley for this coming year is \$29.3M.

**MOTION:** **Senator Winder** moved, seconded by **Vice Chairman Fulcher**, to print **RS21354**.

**VOTE:** The motion carried by voice vote.

**RS21450C1**

RELATING TO LABOR to add a new section to provide legislative intent and to provide for the "Open Access to Work Act". **Senator Pearce** stated **RS21450C1** is before you today to replace S1342, the 2012 version of the Open Access to Work Act that this Committee passed in the last session. Judge Winmill overturned last year's legislation on somewhat specious grounds. This legislation is to address the issues raised by Judge Winmill and protect the Idaho Taxpayer from project labor agreements that are "union only", which drive up prices of government construction projects as they limit competition.

The intent of the bill would be to have Idaho governmental entities, such as state or counties, that contract for construction acting as a "market participant", (a purchaser of construction). The state would not be in a position of acting in a way that could be construed as controlling a labor activity that the Judge thought of as "protected" under the National Labor Relations Act.

The bill addresses the concerns of the Court, meets the goals of the merit shop companies and workers, and does not violate any activities that are protected under the National Labor Relations Act. The Attorney General's opinion is included as part of these minutes.

**MOTION:** **Senator Winder** moved, seconded by **Senator Hill**, to print **RS21450C1**.

**VOTE:** The motion carried by voice vote.

**S1336**

RELATING TO WORKER'S COMPENSATION that shall be paid for disability or death resulting from certain firefighter occupational diseases. **Mike Walker, Executive Vice President, Professional Fire Fighters of Idaho**, provided some of his background. Since the beginning of his career 17 years ago he has made training and ongoing education regarding his profession a priority. Over the course of this study, he has become increasingly aware of the toll fire fighting takes on the human body with such diseases as heart, lung and certain types of cancers related to the profession. Workers compensation protects fire fighters if they are injured in the line of duty, but not if they contract one of the cancers as a result of their job. Chronic exposure over the course of a firefighter's career can result in susceptibility to certain forms of cancers. The workers compensation system does not protect fire fighters in these occupational disease cases. The legislation before you will give fire fighters a chance to have coverage for these diseases, but not an overwhelming advantage.

When a firefighter develops one of these specific cancers the system would look at the qualifying factors set out in this legislation. If the employer can show medical evidence that it was caused by something other than the job, the claim would be denied. There would be a minimal adjustment to the workers compensation premium, between 2.3% to 7.8%. The increase to individual fire departments to cover this adjustment using the 7.8% figure would be a 0.1% to a 0.44% increase to their overall budget.

This legislation is simply about making the workers compensation system work in the cases of occupational diseases to give fire fighters a chance to be taken care of as a result of a job related illness. Right now the door is all but closed for these claimants.

**Dr. Virginia Weaver, Physician, Associate Professor of Occupational Medicine at John Hopkins University**, stated she was present to testify at the request of the International Association of fire fighters on behalf of the Professional fire fighters of Idaho. She stated a disclaimer that her testimony does not necessarily reflect the view of the John Hopkins University.

**Dr. Weaver** presented three related topics on the medical science behind the increased risk of cancer in fire fighters.

- 1) The wide range of carcinogens, cancer causing chemicals, that are present in the smoke that fire fighters regularly encounter.
- 2) The increased risk for various cancers that fire fighters experience as a result of their occupational exposures.
- 3) Complexity of workers compensation for occupational cancer.

1): Occupational exposures: fire fighters, in their line of duty, still enter the uncontrolled hazardous environment and studies show that the chemicals contained within the smoke that fire fighters commonly encounter during their fire suppression and overall activities has been fully documented as a reason for concern for cancer resulting from these exposures.

2) Cancer risks: A number of studies have been conducted to measure the risk of exposure to fire fighters in their duties. A research technique to look at this is called a metaanalysis where you take lots of smaller studies and put them together so that you are better able to tell if there is a true increased risk. By combining 32 smaller studies they were able to show that for the 20 different cancers they looked at 10 were significantly increased in fire fighters and the other 10 did not reach significance, but they were increased as well. It is likely that the numbers underestimate the true risk.

**Senator Davis** asked if this methodology of analyzing the data is an accepted source of evidence. **Dr. Weaver** stated that this analysis is the standard state of the art approach. Exposure assessment is a challenge due to its complexity. If you misclassify fire fighters, high risk fire fighters end up in a low or no risk group which underestimates risk. Fire fighting is tough work and young, strong, healthy recruits enter the fire service. They have to stay physically fit in order to do the work. In addition, fire fighters are a small work force. It is very hard to evaluate the damage to find the increased risk. Overall, the research is stacked against finding an increased risk of cancer in fire fighters.

3) Impact for Fire Fighters: It is incredibly difficult for occupational cancer to be verified because the occupational exposures are from years before the cancers appear. There are not many physicians with the knowledge to be able to weigh the risk factors. There are not many lawyers that can help in the workers compensation system. A firefighter who has cancer is getting chemotherapy and then has to prove through the medical and legal system, that this is work related to get some compensation. The cancer treatment costs are ongoing while the burden of qualifying is placed on the claimant.

Reasons against the legislation would be that it is a "slipper slope." If the state makes this adjustment for one occupation they must do it for everyone. Fire fighting is totally different than all other occupations. The majority of states in the U.S. now have presumption cancer legislation.

In summary, air monitoring clearly supports that fire fighters are exposed to carcinogens at high levels in their work. The analysis shows that fire fighters are at increased risk for developing and dying from specific cancers. For the reasons discussed the risks that they see in the research studies is likely to be underestimated and they know that the burden of the current workers compensation system places an extraordinary burden on individual fire fighters who develop cancer.

**Senator Davis** asked if a firefighter patient has a family history of cancer and exposes themselves to the carcinogens, how have other states navigated with the causation and is it fair to the fire fighters? **Dr. Weaver** replied that, because of the inherent challenges and the physical demands of fire fighting, they have physicals on a more regular basis. These examines are used to ensure that the worker is not placing themselves or coworkers at risk. These physicals document smoking, family history, and can be weighted in when deciding whether or not the occupational risk outweighs the non-occupational risk.

The following individuals testified in support of **S1336**:

**Travis Woolford,**

**Chief Dennis Doan, Boise Fire Department**

**Dick Owen, Practicing Attorney, representing injured workers**

**Dr. Paul Collins**

Questions were addressed to Chief Doan from Committee members regarding workers' compensation rating methodology, cost increases to the districts, and fire fighters that would qualify for coverage, i.e. full time versus part time and volunteers.

**Mr. Walker** closed by stating that the system is stacked workers and occupational disease cases. The hazard exists and fire fighters are sick because of exposures. This bill is a reasonable bill by giving a claimant a fair chance to prove a his/her case before the industrial commission.

**Chairman McKenzie** spoke with **Woody Richards**, representing private insurers, and asked **Mr. Walker**, if they were going to request that the bill go to the amending order. **Mr. Walker** stated that they have a compromise language change and would like to send the bill to the amending order with those recommended changes.

**MOTION:** **Senator Davis** moved, seconded by **Senator Winder**, to send **S1336** to the 14th Order for amendment to revisit the fiscal note with the projected costs to the local governments.

**VOTE:** The motion carried by voice vote.

**RS21424** STATING LEGISLATIVE FINDINGS instructing the Interim Committee on Energy, Environment and Technology to study the effects of wind farms in Idaho.

**MOTION:** **Senator Winder** moved, second by **Senator Lodge**, to print **RS21424**.

**VOTE:** The motion carried by voice vote.

**RS21355** UNANIMOUS CONSENT FROM SENATE TRANSPORTATION COMMITTEE to send RS21355 amending *Sections 67-2805 and 67-2806, Idaho Code*, to provide the same exemption from disclosure of bids and bid documents until after awarded as provided in *Section 67-5711C, Idaho Code*. **Senator Winder** explained this unanimous consent request was given by the Senate Transportation Committee and he requests consideration to print **RS21355**.

**MOTION:** **Vice Chairman Fulcher** moved, second by **Senator Winder**, to print **RS21355**.

**VOTE:** The motion carried by voice vote.

**ADJOURNMENT:** There being no further business, the meeting adjourned at 9:33 a.m.

---

Senator McKenzie  
Chairman

---

Twyla Melton  
Secretary