

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, March 16, 2012

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Senators Darrington, Davis, Hill, Fulcher, 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.

**H553** RELATING TO CIVIL OFFICES to provide for vacancies in elective civil offices.

**Representative Trail** presented **H553** amending *Idaho Code Section 59-901* to provide for vacancies in elective civil offices at the municipal or county level. **Representative Trail** explained the legislation had been reviewed by the Attorney General's office and would pertain to city or county officials absent from his/her duties for an extended period of time. History of specific examples were reviewed. **Representative Trail** enumerated on procedures outlined in the legislation to fill vacancies. **Senator Davis** questioned the terms "elective civil office" or "civil office." **Representative Trail** yielded to **Brian Kane**, the Attorney General's office. **Mr. Kane** indicated neither term is defined in Idaho Code. *Idaho Code, Section 59-901* deals with vacancies and how they would be filled in both local and legislative offices. The term "civil office" would differentiate from vacancies in offices at the legislative level. Further questions were raised by **Senator Davis** to clarify whether **H553** could be construed to apply to legislative offices. **Mr. Kane** stated that legislative offices were not part of this bill.

**Chairman McKenzie** questioned **Mr. Kane** concerning the term "infamous crime." **Mr. Kane** indicated the term "infamous crime" was being struck and replaced with "felony" for clarity.

**MOTION:** **Senator Davis** moved, seconded by **Senator Winder**, to send **H553** to the floor with a do pass recommendation

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

**S1372** **Chairman McKenzie** explained that this bill came back to our committee and should have gone to Transportation Committee.

**MOTION:** **Senator Winder** moved, seconded by **Senator Fulcher**, to refer **S1372** back to the Senate Floor to be referred out to the Senate Transportation Committee.

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

**H452** RELATING TO BOND ELECTIONS to provide more transparency to existing Idaho law as it relates to bond elections.

**H452**, presented by **Representative Simpson**, creates requirements of the taxing district to provide a statement of purpose for which the bonds are to be used, disclosure of the interest amount of the bonds, and the retirement or maturity date of the bonds which will promote transparency. **Representative Simpson** pointed out that existing *Idaho Code, Section 34-439* which originally provided for bond elections had no provision to enumerate the purpose for the bond or date of the election. *Idaho Code, Section 34-439* would be replaced with language from **H452**. Questions were asked by **Senator Darrington** and **Senator Davis** concerning taxing districts positions relative to this legislation. **Representative Simpson** answered that no opposition has been revealed from taxing districts.

**MOTION:** **Senator Fulcher** moved, seconded by **Senator Davis**, to send **H452** to the floor with a do pass recommendation.

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

**H576** RELATING TO LEVY ELECTIONS to provide public notice and ballot requirements for levy elections.

**Representative Simpson** explained that **H576** was a companion bill to the prior legislation discussed relating to Levy Elections. **Representative Simpson** pointed out that existing Idaho Code did not provide any requirements to the taxing districts pertaining to levy elections and that **H576** would add a new section providing direction and requirements for levy elections, except for those relating to override levies, which typically are not measured in dollars but in percentages. Examples of inconsistencies in levy elections were cited and a sample ballot was reviewed. **Senator Davis** questioned whether the legislation would affect the results of an election or cause trouble in the bond market. **Representative Simpson** yielded to **Tim Hurst**, the Idaho Secretary of State's Office, who indicated no problems were evident in his research. **Chairman McKenzie** questioned if the disclosure would appear on the ballot. **Representative Simpson** explained disclosure would appear on both the ballot and the public notice. **Senator Davis** voiced his opinion that the fiscal note may not be correct because additional costs would occur when printing ballots. **Representative Simpson** clarified that only a minor amount of additional information would need to be published. **Mr. Hurst** concurred.

**Frank Priestly**, President, Idaho Farm Bureau Federation, submitted a letter of support for **H452** and **H576** on behalf of the members of the Idaho Farm Bureau Federation.

**MOTION:** **Senator Winder** moved, seconded by **Senator Davis**, to send **H576** to the floor with a do pass recommendation

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

**H536** RELATING TO PARI-MUTUAL BETTING to prevent non-resident simulcast companies from discriminating against Idaho simulcast licensees.

**Representative Henderson** introduced **H536** relating to pari-mutual betting methods used by Idaho residents to place bets on horse racing. **H536** would prevent non-resident, simulcast companies with wagering affiliates, from discriminating against Idaho simulcast licensees, by engaging in anti-competitive practices aimed at eliminating Idaho competition and Idaho jobs for the benefit of out-of-state advance deposit wagering companies. **Representative Henderson** outlined the economic advantages **H536** would have for Idaho.

**Senator Fulcher** asked what would constitute "deceptive practices." **Representative Henderson** yielded to **Russell Westerberg**, Westerberg and Associates.

**Mr. Westerberg** explained the purpose of the legislation is to protect jobs in Idaho by preventing advanced deposit wagering providers from attempting to recover the advanced deposit wagering source deposit fee which would increase costs. **Mr. Westerberg** enumerated fees associated with betting in Idaho and explained the licensing of simulcast companies that share fees collected during betting. **H536** would require companies wishing to be licensed to collect advanced deposit wagering in Idaho to reach an agreement with Idaho licensed simulcast operators and the Idaho Racing Commission on standard fees to be charged to Idahoans placing bets from home, at an Idaho betting company, or at the race track.

**Senator Davis** questioned the duty to reach a non-discriminatory agreement and what part of the legislation compels negotiations to occur. **Mr. Westerberg** stated that the racing commission needs to determine if discrimination against local providers has happened. **Mr. Westerberg** indicated that the racing commission would act as an arbitrator between Idaho companies and those outside of Idaho to determine if a "good faith" effort to reach an agreement occurred. **Mr. Westerberg** further clarified by citing language contained on page 5 of the bill.

**Senator Hill** was concerned about the possibility of eliminating service providers by controlling amounts paid to them. **Mr. Westerberg** indicated that the service providers could choose not to do business in Idaho but that those providers would still have a part in the negotiations. **Mr. Westerberg** compared fees charged in other states which are lower than those charged in Idaho.

**Chairman McKenzie** inquired whether the problem addressed by **H536** could be controlled by eliminating internet betting in Idaho. **Mr. Westerberg** countered that the legislature could repeal "advanced deposit wagering" in Idaho, but horsemen's organizations in Idaho would not receive their allotted portion of the fees.

**Chairman McKenzie** introduced **Ted Hoffman** from the Idaho State Racing Commission who testified in favor of the legislation. **Senator Davis** asked if there were concerns with the authority of the Racing Commission acting as an arbitrator. **Mr. Hoffman** replied no disagreements or unresolved concerns exist with the legislation and that the Idaho Racing Commission issues licenses to business wishing to operate in Idaho. **Mr. Hoffman** stated that **H536** gives the Commission guidance on cases where such a company wants to operate within Idaho. Services must sell at a fair amount or the license will not be granted. Fair amounts can be negotiated with existing advanced deposit wagering companies because licenses are issued on an annual basis. **Senator Davis** asked for further clarification as to when the Racing Commission could impose terms to an existing advanced deposit wagering company. **Mr. Hoffman** answered that costs are already set for 2012. **H536** would prevent unfair fees charged for following years and that the Racing Commission would only act as an arbitrator if an agreement between companies could not be reached prior to license renewal.

**Senator Stennett** asked about and received clarification regarding different simulcasting companies.

**Jim Grigsby**, one of the owners of Treasure Valley Racing, spoke in favor of the legislation and directed **Senator Davis** to the wording in the legislation that offers authority to the Idaho Racing Commission to arbitrate agreements. **Mr. Grigsby** recounted incidents about companies associated with pari-mutual betting operating in Idaho; reiterating the need to protect Idaho business involved and the intent of the legislation. **Senator Davis** summarized his understanding of the licensing process and asked where in the legislation the Racing Commission was given arbitration authority. **Mr. Grigsby** stated that because the Racing Commission grants the license, the Commission would have the authority to arbitrate a fair fee for the State of Idaho.

**Chairman McKenzie** summarized his understanding of the legislation and asked for clarification concerning signals provided by licensed companies. **Mr. Grigsby** explained that certain companies provide signals and those signals are in demand across the country.

**MOTION:** **Senator Davis** moved, seconded by **Senator Winder**, to send **H536** to the floor with a do pass recommendation

**Senator Davis and Chairman McKenzie** agreed that the legislation is not about horse racing but about the competitive fairness issue.

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

**H518** RELATING TO CIGARETTE ROLLING MACHINES to ensure that the use of such machines will not circumvent current laws and undercut the purposes for which they were enacted.

**Brett DeLange**, Office of the Attorney General, presented **H518**. **Mr. DeLange** explained that the legislation deals with large, commercial cigarette rolling machines recently introduced to the market. These machines have the potential of circumventing present Idaho laws and undercut Idaho's Master Settlement Agreement with the tobacco industry. **Mr. DeLange** clarified that **H518** would ensure those persons who offer these machines for use in a commercial context comply with present Idaho laws governing the manufacturing, marketing and sale of cigarettes and certify that compliance to the Attorney General. **Mr. DeLange** indicated that **H518** was not anti-business legislation, but that it was a "level the playing field," public health bill. **Mr. DeLange** then reviewed certain sections and definitions of **H518**, giving examples and justification for the legislation. **Mr. DeLange** reviewed federal requirements to certify types of tobacco brought into the state and explained that the state has to ensure compliance and subsequently, receives tax dollars from tobacco products sold in the state. **Mr. DeLange** cited the section giving the Attorney General's office ability to regulate cigarette rolling machines.

**Senator Malepeai** questioned whether the legislation applies to reservations. **Mr. DeLange** stated **H518** does not change rules relating to tribal sovereignty within the state.

**Kevin Altman**, a consultant for the National Tobacco Company, spoke in support of the legislation. **Mr. Altman** compared traditional "roll your own" cigarette machines with commercial machines and further explained the process a consumer would use to produce and buy cigarettes made by a commercial machine. He explained his company sells tobacco used to "roll your own" cigarettes how it is taxed by the state when purchases are made. **Mr. Altman** said owners of cigarette rolling machines avoid taxes levied by state and local governments by purchasing tobacco that is taxed at a lower rate. He further stated that other states are considering similar legislation.

**Chairman McKenzie** questioned about tobacco companies listed on the state directory and taxes associated therewith. **Mr. Altman** clarified that if cigarette rolling machine companies are required to comply with state directory listings and include differences between pipe tobacco and cigarette tobacco, the result would be the collection of appropriate taxes.

**Steve Rector**, representing Pinnacle Business Group, spoke in opposition to **H518**. **Mr. Rector** requested that **H518** be sent to the amending order to clarify the effect on the Master Settlement Agreement relating to this legislation. **Senator Davis** indicated that even if **H518** were to pass, the legislation in the amendment could be presented at a later time as separate legislation and asked **Mr. Rector** what might be the problems with that proposal. **Mr. Rector** replied that his client wished to amend the current legislation and asked for the support of that amendment. **Senator Winder** asked if **H518** was not amended, would **Mr. Rector** work with the Attorney General to propose future legislation relative to the proposed amendment? **Mr. Rector** stated the unwillingness of the Attorney General's office to discuss the merits of the amendment.

**Mr. Altman** indicated that the Attorney General's office has reviewed and discussed the amendment.

**MOTION:** **Senator Davis** moved, seconded by **Senator Hill**, to send **H518** to the floor with a do pass recommendation.

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

**H368A** RELATING TO THE STATEWIDE COMMUNICATIONS INTEROPERABILITY EXECUTIVE COUNCIL (SIEC) to amend current language by extending the sunset clause and to make changes to the make-up of the SIEC.

**Mark Lockwood**, Chief of Police, Sandpoint, Idaho, presented **H368a** relating to the Statewide Communications Interoperability Executive Council (SIEC). **Chief Lockwood** explained that **H368a** would amend *Idaho Code, Section 46-1200* by extending the sunset clause from December, 2012 to December, 2018. He further stated language corrections would be made to the current section of this Idaho Code and that **H368a** would make changes in the make up of SIEC to reflect current needs.

**MOTION:** **Senator Davis** moved, seconded by **Senator Winder** to send **H368a** to the floor with a do pass recommendation.

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

**ADJOURNMENT:** Being no further business, **Chairman McKenzie** adjourned the meeting at 10:00 a.m.

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Senator McKenzie  
Chairman

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Twyla Melton  
Secretary