

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Tuesday, March 20, 2012

TIME: 8:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Crane, Representative(s) Stevenson, Black, Anderson, Andrus, Bilbao (Reynoldson), Luker, Palmer, Simpson, Guthrie, Henderson, McGeachin, Sims, Batt, Smith(30), King, Higgins, Buckner-Webb

**ABSENT/
EXCUSED:** Representative(s) Stevenson, Anderson

GUESTS: Roger Batt, Idaho Heartland Coalition & Idaho Eastern Oregon Seed Association; Marty Durand, Idaho Building Trades Council; Russell Westerberg, Rocky Mountain Power; Cindy Hedge, Idaho State AFL-CIO; Ben Otto, Idaho Conservation League; Karen Ewing, Board of Veterinary Medicine; Jason Kreizenbeck, Lobby Idaho, LLC; Lynn Tominaga, Idaho Ground Water Association; Will Hart, Idaho Consumer-Owned Utilities Association; Norm Semanko, Idaho Water Users Association; Jayson Ronk, Idaho Association of Commerce & Industry; Jan Sylvester, Citizen; Brad Hunt, Office of Administrative Rules Coordinator (OARC); Kate McCaslin, Inland Pacific Chapter of the Associated Builders and Contractors; Tom Perry, Office of the Governor; Melanie Wade, Administrative Advisor, Idaho Unclaimed Property Program, Office of the State Treasurer.

Chairman Loertscher called the meeting to order at 8:03 a.m.

Rep. Batt made a motion to approve the minutes of March 9, 2012 as written. **Motion carried by voice vote.**

Rep. Smith(30) made a motion to approve the minutes of March 13, 2012 as written. **Motion carried by voice vote.**

H 554: **Rep. Gibbs** presented **H 554**, legislation to include disclosure and transparency around large capital expenditures by regulated electric utilities in the planning process when such expenditures are anticipated to be added to the electric utility rates paid by Idahoans. The coalition supporting **H 554**, as well as the three (3) power companies, Rocky Mountain Power (RMP), Idaho Power, and Avista have conducted discussions regarding the need for disclosure and transparency around large capital expenditures undertaken by the regulated electric utility companies. The parties involved, especially Rocky Mountain Power, have reached an agreement for a policy to address the issues of **H 554**. Rep. Gibbs requested that the committee **HOLD H 554** in committee.

Rep. Gibbs responded to questions by noting that the agreement that has been reached has no bearing on rules for the Public Utilities Commission (PUC). The PUC will conduct further hearings to gather information the parties have requested.

MOTION: **Rep. Smith(30)** made a motion to **HOLD H 554** in committee. **Motion carried by voice vote.**

S 1343: **Tom Perry**, Office of the Governor, presented **S 1343**, legislation to give the Governor authority to request that the Idaho State Police (ISP) provide security and protection for the Lieutenant Governor and his or her immediate family from time to time and as needed. Currently Idaho Code allows ISP to provide protection for the Governor, the Legislature, the Supreme Court, and the Court of Appeals. Mr. Perry stated that **S 1343** will allow the Governor to provide written direction to provide security and protection for the Lt. Governor.

MOTION: **Rep. Higgins** made a motion to send **S 1343** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Higgins** will sponsor the bill on the floor.

S 1363: **Melanie Wade**, Administrative Advisor, Idaho Unclaimed Property, State Treasurer's Office, presented **S 1363**, legislation to provide a method for the claimant to donate to a cross-section of public purposes likely to appeal to most claimants. Ms. Wade explained that sometimes the amount of unclaimed property is less than \$5.00. When the public claims their unclaimed property, **S 1363** will provide a way to donate the proceeds. The State Treasurer's office has chosen four (4) entities: the General Fund, the Public School Permanent Endowment Fund, the Veterans Cemetery Maintenance Fund, and the Park and Recreation Capital Improvement Account. Ms. Wade noted the donation will only require an electronic transfer of funds within the State Treasury.

MOTION: **Rep. Luker** made a motion to send **S 1363** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Guthrie** will sponsor the bill on the floor.

S 1365: **Melanie Wade**, Administrative Advisor, Idaho Unclaimed Property, State Treasurer's Office, presented **S 1365**, legislation to restate existing protections related to personal information and audit methodology for the Idaho unclaimed property program. In 2010, Idaho's unclaimed property program was transferred from the State Tax Commission to the Idaho Treasurer. Ms. Wade clarified that while the program was within the State Tax Commission, personal information of businesses and individuals was protected by Section 63-3076, Idaho Code, and the program's audit methodology was protected by Section 9-340F(4). Unclaimed property includes uncashed payroll checks, life insurance policies when no beneficiary is found, forgotten bank accounts, and stocks. Identifying information for the rightful owner includes telephone numbers, addresses, birth dates, and social security numbers. Ms. Wade stressed **S 1365** is to restate existing protections of personal information now that the program has been transferred from the State Tax Commission to the Treasurer's Office.

Ms. Wade responded to questions by explaining that the State Tax Commission already has protection for personal information disclosed on tax returns. The State Treasurer just wants to be afforded the same protection for the information disclosed in the Unclaimed Property Program.

MOTION: **Rep. Smith(30)** made a motion to send **S 1365** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Buckner-Webb** will sponsor the bill on the floor.

S 1366: **Roger Batt**, representing Idaho Heartland Coalition and Idaho Eastern Oregon Seed Association, presented **S 1366**, legislation to strengthen the Legislature's support for negotiated rulemaking. Mr. Batt explained that the genesis of **S 1366** began in 2008 when he was engaged in negotiated rulemaking with one of our state agencies and shared his experience with others. Those involved described negotiated rulemaking as an "oxymoron" due to the agency dictating what was going to happen instead of taking input from stakeholders, and pushing rules through the process without considering all pertinent information. Mr. Batt noted that **S 1366** has been reviewed by eight (8) of our state agencies through meetings, phone calls, and e-mail correspondence. **S 1366** will strengthen the negotiated rulemaking process by requiring agencies to establish, maintain, and update their negotiated rulemaking schedule, provide a list of written comments and documents to the stakeholders regarding pertinent information discussed, and prepare a written summary of unresolved issues, key information, and conclusions reached. Mr. Batt clarified that **S 1366** allows agencies discretion on how to make information accessible to negotiated rulemaking participants by either utilizing their website,

handouts, or e-mail correspondence. An emergency clause is included to allow agencies an earlier start to adopt and follow procedures outlined in **S 1366**.

Roger Batt responded to questions by clarifying that there are agencies that take notes or minutes regarding the rulemaking process, but they do not decipher the information and determine what the real issues are. Currently, procedures for negotiated rulemaking are already found under IDAPA 04.11.01,800-819. **S 1366** simply codifies the process.

MOTION: **Vice-Chairman Crane** made a motion to send **S 1366** to the floor with a **DO PASS** recommendation.

Karen Ewing, representing the Board of Veterinary Medicine, testified **in opposition to S 1366**. Ms. Ewing stated a direct approach is their preferred practice, but they would need to know who is affected by a rule in order to reach them. The Board of Veterinary Medicine prefers to contact their licensees via a newsletter, explain the rules, and request feedback.

Ms. Ewing responded to questions by explaining the Board of Veterinary Medicine does not mind posting information on their website, but in-person negotiated rulemaking increases costs for the board due to travel and pay. The board members also lose money from their veterinary practice due to lost time.

Jayson Ronk, representing Idaho Association of Commerce & Industry, testified **in support of S 1366**. Mr. Rock noted that **S 1366** will streamline the rulemaking process, provide public input, and promote census.

Norm Semanko, representing Idaho Water Users Association, testified **in support of S 1366**. Mr. Semanko stated that **S 1366** provides a basic check-in for an agency to improve the rulemaking process, increase public participation for those already plugged in and those who are currently not involved.

Roger Batt closed out testimony on **S 1366** by stating that negotiated rulemaking is different from final rulemaking. An agency can streamline their procedures and cut costs by use of conference calls and webinars.

VOTE ON MOTION: **Chairman Loertscher** called for a vote on the motion to send **S 1366** to the floor with a **DO PASS** recommendation. **Rep. Batt** invoked Rule 38 but stated she would be voting on the motion. **Motion carried by voice vote. Rep. Moyle** will sponsor the bill on the floor.

S 1373: **Rep. Henderson** presented **S 1373**, legislation to provide for the efficient and cost-effective procurement of goods and services by political subdivisions as market participants. During the 2011 legislative session, **HJM 10** was signed into law, but disputed by the court and overturned. Rep. Henderson stated that **S 1373** readdresses the issue, but avoids any connection to the National Labor Relations Act (NLRA). **S 1373** will protect Idaho taxpayers from paying too much for public construction projects that are "union only", and guarantee that all construction workers in Idaho have open access to work in Idaho. Rep. Henderson clarified the intent of **S 1373** is to have Idaho's governmental entities such as the State or counties contract for construction projects as a "market participant", a purchaser of construction. By applying this procedure the State would not be construed as controlling a labor activity "protected" under the National Labor Relations Act. The State will be a purchaser of construction, a good steward of taxpayer's dollars, and keep publicly funded projects open to all contractors and all workers. The NLRA will not be preempted.

Kate McCaslin, President & CEO, Inland Pacific Chapter of the Associated Builders and Contractors, testified **in support of S 1373**. Ms. McCaslin stated that **S 1373** will maintain a free and open market place in Idaho, and will ensure that taxpayers have the best construction for the best price. The State will maintain a neutral approach and will not interfere with private agreements for labor activities.

Marty Durand, representing Idaho Building Trades Council, testified **in opposition to S 1373**. Ms. Durand stated that **S 1373** does not address all issues. The NLRA is complex as well as the court's decision overturning **HJM 10**. Ms. Durand emphasized that **S 1373** would deprive agencies of labor agreements and deny construction workers the ability to participate in the NLRA. **S 1373** would only serve the Inland Pacific Builders Association.

In response to questions, **Ms. Durand** noted that project labor agreements save the State money by ensuring workers are highly skilled, receive benefits, and provide enough workers for a project. Ms. Durand stated that she feels the State should not take a position either way.

Rep. Henderson closed out testimony by clarifying that **S 1373** does not involve the NLRA, it only addresses procurement. It addresses free market with competition for bidding on projects that are open to everyone whether union or merit shop.

MOTION:

Rep. Simpson made a motion to send **S 1373** to the floor with a **DO PASS** recommendation. **Vice-Chairman Crane** invoked Rule 38 because he is a member of the Pacific Inland Builders Association but stated he would be voting. **Reps. Smith(30), Buckner-Webb, Higgins & King** requested to be recorded as voting **NAY**. **Rep. Henderson** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee; the meeting was adjourned at 9:03 a.m.

Representative Loertscher
Chair

Lissa Cochrane
Secretary