

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, March 22, 2012
TIME: 8:00 A.M.
PLACE: Room WW53
MEMBERS PRESENT: Vice Chairman Smyser, Senators Corder, Pearce, Vick, Bock, and Schmidt
ABSENT/ EXCUSED: Chairman Siddoway, and Senators Hammond and Nuxoll

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.

CALL TO ORDER In **Chairman Siddoway's** excused absence, **Vice Chairman Smyser** took the Chairman's seat and called the meeting to order at 8:05 a.m.

Vice Chairman Smyser invited the Page, **Daniel Kelley**, to approach the podium. He shared with the Committee that he decided to be a Page because his sister was one last year and he thought it looked fun. He said he knew **Senator Heider** as a counselor so he asked him to be his sponsor. He also did Boys State last year and thought this would fit right in. **Vice Chairman Smyser** asked him about his future plans, and he said he will do his first two years at College of Southern Idaho, and after that he would like to go to chef school at Cordon Bleu Paris.

Senator Vick asked him what he plans to study. **Mr. Kelley** said he would like to work toward a couple of technical licenses, like a heavy equipment and a mechanical technical degree, so in case cooking doesn't work out, he has something to fall back on. **Vice Chairman Smyser** thanked **Mr. Kelley** for his service in the Senate and the Agricultural Affairs Committee and presented him with a Page Senate Watch and letters of recommendation.

MINUTES The Committee reviewed the minutes of the Agricultural Affairs Committee Meeting of March 13, 2012. **Senator Bock** moved, seconded by **Senator Pearce**, to approve the minutes as submitted. Motion carried by **voice vote**.

H611 **Vice Chairman Smyser** invited **Heather Cunningham**, Private Property Law Attorney with Davison, Copple, Copple & Copple, to the podium to present H611, relating to livestock liens and the sale of certain livestock at public auction. She shared that in January, she had a client who was owed \$5,000 for overdue horse boarding fees. It came to her attention as she prepared that case that there isn't much of a market for horses in livestock auctions in this state anymore.

Ms. Cunningham said in these types of cases, typically one will sell the property, in this case a horse, at a licensed public livestock auction market. She called around the state and was only able to find two that will sell horses at all, one in Twin Falls and one in Lewiston, but they are only held periodically, once or twice a year in the summer. So, if someone is owed board or pasture fees, and they need to sell the animals to get paid, it is not realistic to have to wait and then haul an animal. She described it as a statewide problem, as there are many animals that are pastured, and the price of hay has been going up.

There is a problem of more and more people walking away from their responsibilities, thus leaving someone holding the bag who cannot take legal possession of the animal, sell the animal and move on. **Ms. Cunningham** said she discussed with the State Brand Inspector, **Larry Hayhurst**, about how the statute needed to be updated.

She said his suggestion for a solution was to use a public auction as an option, but still allow auction market when available. The idea is people use public auctions to sell off items left in a storage unit or apartment or even if someone walks away from their home. If there are other animals other than horses, such as sheep or cows, they can probably still use the public livestock auction market, because they get higher prices and they wouldn't need to pay for the cost of conducting the auction.

Ms. Cunningham said for practical matters, this bill does nothing to take away any of the existing procedures. All it does is fix the problem for horses in remote areas where people don't have access to livestock auction markets. She said, it's an easy fix, as all it does is drop out three words in two locations and that's it.

Representative Judy Boyle agreed to sponsor it in the House.

Senator Schmidt said the Statement of Purpose describes this bill as being directed toward boarding horses, but the language of the bill makes it appear other livestock could be addressed as well.

Ms. Cunningham said yes, that is true. People would need to go through the auction advertising fees and costs and procedures and all that, so as a practical matter and through discussions with other lobbying groups, although it applies to livestock, it probably wouldn't happen. She said she hopes that while that is a fair point, she hopes it doesn't keep him from voting for the bill. **Senator Schmidt** said no, that won't keep him from voting for the bill.

Ms. Cunningham said she did run it by all the interested parties she could think of, including Idaho Wool Growers, Idaho Cattlemen's Association, Idaho Horse Council, Idaho Farm Bureau, and the Idaho Auction Association, and no one had any objections or problems, and there has been no opposition. **Ms. Cunningham** also reminded the Committee she provided a letter from **Larry Hayhurst** of the Idaho Brand Board. Supporting documents related to this testimony have been archived and are accessible in the office of the Committee Secretary. (See Attachment #1.)

Senator Pearce asked about the requirements of public auction, like who runs it, who advertises it, how does it run, and if it is like a repossession by the Sheriff.

Ms. Cunningham referred the Committee to page two, where it outlines the procedures, of giving notice ten days in advance to include time, place, and date, person who has the lien, name of owner, number and breed of the livestock, and then send notices, by personal service or registered mail, and conducting the auction either by having a sheriff or an auctioneer, or anyone who would conduct the auction, as long as they follow procedure. It would be the same as selling property at a foreclosure sale.

Senator Pearce stated he can see what is trying to be accomplished, but his concern is that someone who has a pasture dispute over a hundred head of cattle or something, who might be able to quietly advertise or put it out there quietly and then do it, that would diminish the value, because there are a lot of buyers at a public auction yard. He said the other question is about his understanding that the Emmett yard sells horses, noting he didn't realize Caldwell didn't, and he would be surprised if Jerome didn't.

Ms. Cunningham said that was not what she found in her research when she called in January to Caldwell and Emmett and they said they would not sell horses. She said her recollection of other statute for requirements for public auction is that notice has to be published three times, and it can't be done on the QT.

She said she spoke with the Brand Inspector and they discussed that if someone has an animal they want to get rid of, they will want to get the best price they can for that animal. So, if they have the option of going to public livestock auction market, where there are buyers, they would do that.

The problem is that sometimes one can't even get \$100 for a horse anymore, and people pay \$240 per ton of hay.

Senator Pearce said his concern is by allowing this, they're allowing for other animals that are pastured, and that could leave the door open for mischief. He said he may be seeing ghosts here, but he worries that in trying to take care of a one or two horse problem, it may impact an entire industry. **Ms. Cunningham** said she understands what **Senator Pearce** is saying, and she certainly would not advocate a public policy change if she didn't think it were a statewide and significant problem. She said she was able to get the man in the case in January to pay, but that unfortunately is not always possible, saying it's not just a one or two horse problem, but there are many, many people around the state and thousands of horses having a problem.

She said although the amendment applies to livestock, there is an incentive to use the market whenever possible, and she doesn't think this bill does any damage to that. She said she is not the policy maker, and would be open to any suggestions of better ways to do it, but the problem now is that people are abandoning horses or not able to recover money or legally sell them, so they're sitting in limbo, and if something is not done, the problem will be overlooked. This statute has been around since the 1890s and needs to be updated.

Vice Chairman Smyser asked if **Ms. Cunningham** looked at legislation in other states. **Ms. Cunningham** answered she is not aware of any other amendments for this in other states, but she said she does know this problem exists in other states and they are looking for solutions, but she hasn't seen any specific legislation.

Senator Corder said he was following the thought process of **Senator Pearce** about having 100 cows boarded in someone's pasture, that the same process would have to be followed, so those 100 cattle would have to be noticed and go through the whole thing, and then he would have to haul them to a licensed public livestock auction market. He was trying to see if he missed **Senator Pearce's** point, but it would seem that the change doesn't affect that process at all.

Ms. Cunningham said she believed that is correct, and as long as someone has the option, and that's where they'll make the most money, and for ungulates there is a great market. Someone does have to give notice to the owner and to others, and publicly advertise it, so no one can just sell them to their best friend across the pasture.

Senator Schmidt said on line 17, public notice is required, so if it is a substantial sale with significant interest, one would hope a lot of people would want to be there to buy. **Ms. Cunningham** said thank you.

Vice Chairman Smyser invited **Wally Butler**, Range and Livestock Specialist for the Idaho Farm Bureau, to the podium to offer his thoughts. He spoke in support of H611. He said they reviewed this bill and they're very comfortable with it. He said they discussed valid concerns like **Senator Pearce** expressed, but the Idaho Farm Bureau believes they are covered in this bill.

MOTION

Senator Schmidt moved, seconded by **Senator Pearce**, to move H611 to the floor with a do pass recommendation. Motion carried by **voice vote**.

ADJOURNED

Vice Chairman Smyser called the meeting adjourned at 8:25 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary