

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

DATE: Monday, January 20, 2014

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Raybould, Vice Chairman Eskridge, Representatives Hartgen, Vander Woude, DeMordaunt, Nielsen, Thompson, Anderson(31), Anderst, Mendive, Monks, Morse, Trujillo, Smith, Rusche, Woodings

**ABSENT/
EXCUSED:** Representative Aderson(1)

GUESTS: Barry Burnell, DEQ; Curt Fransen, DEQ; Brenda Tominaga, IWPG; Dale Atkinson; Norm Semanko, Idaho Water Users Association; Jack Lyman, Idaho Mining Association

Chairman Raybould called the meeting to order at 3:35 p.m.

MOTION: **Rep. Trujillo** made a motion to approve the minutes of January 14, 2014. **Motion carried by voice vote.**

RS 22394: **Barry Burnell**, Water Quality Division Administrator for the Idaho Department of Environmental Quality, presented **RS 22394** to the committee. He stated that the purpose of this legislation is to make a technical correction to the definition of "sanitary restriction" so that it will be consistent with other sections of Idaho Code. He said that currently the definition references the "Board of Health and Welfare by its administrator" however, it should reference the Director of the Department of Environmental Quality (DEQ). The intent of this legislation is to remedy this inconsistency.

MOTION: **Rep. Rusche** made a motion to introduce **RS 22394**. **Motion carried by voice vote.**

RS 22408: **Barry Burnell** presented **RS 22408** to the committee. He stated that the purpose of this legislation is to amend the State Revolving Fund (SRF) provisions to allow fund transfers between drinking water and wastewater loan accounts so all funds can be put to immediate use by the State. He mentioned that historically, there has been a much higher demand for loans from the Wastewater Fund than from the Drinking Water Fund and in the past two years, there has been excess funds in the Drinking Water Fund while the Wastewater Fund received more requests than they had funding ability. This bill would allow the Board of Environmental Quality through DEQ the flexibility to transfer funds between the two loan accounts.

In response to questions regarding tracking and accounting of transferred funds, **Mr. Burnell** stated that the exchanges have been limited to 30% by federal law and so the tracking issues would be minimal.

In response to questions regarding the transfer of funds back to the original account if they are needed or in repayment of the loan, **Mr. Burnell** stated that all the money stays within the control of DEQ and that the money goes back to the SRF. He also added that they are double audited to ensure appropriate accounting. Mr. Burnell also mentioned that once funds are transferred they can be transferred back if there is excess in the one and a need in the other.

In response to a question regarding the amount of money involved in these transfers, **Mr. Burnell** stated that last year the Drinking Water Fund had an excess of \$19 million and in 2012 there was an excess of \$5 million. He stated that because a law did not exist that allowed DEQ to transfer the funds, they could not be used to help cover the shortage of funds in the Wastewater Fund.

In response to a question concerning the input of the Bond Council and if this legislation would have any impact on the buying of bonds, **Mr. Burnell** stated that he did not take this to the Bond Council, but he was unsure whether or not the other loan officers had. He also mentioned that he did not think it would have an impact.

In response to a question regarding the stipulation that allow for local community negotiation, **Mr. Burnell** stated that there was no stipulation for that in this legislation because the loan would take place through DEQ. He added that, should a municipality wish to have negotiation as a part of their process, the Municipal Bond Banks are an available option.

In response to a question regarding why there is still a need for additional funding, **Mr. Burnell** stated that even though the loans have been refinanced at a lower rate there is simply not enough money to fill the need. He mentioned that the shortfall is almost \$70 million. When asked how much DEQ gets from the federal government, **Mr. Burnell** stated that Drinking Water gets about \$8-10 million and the Wastewater Fund gets about \$6-9 million. He added that these figures change based on the Congressional appropriations.

MOTION: **Rep. Rusche** made a motion to introduce **RS 22408**.

In response to a question about the impact of this legislation on competition for funds, **Mr. Burnell** stated that it should not have any effect on the competition for funds within a fund or between the funds because the plan is not to transfer the funds unless there is an excess in one account, meaning all of their requests have already been met. When asked why this intent was not in the legislation, **Mr. Burnell** stated that it could be added into the rules that would govern the process.

In response to inquiries about the 30% cap on the total transfer of funds, **Mr. Burnell** said that it is a fixed limit that is based on the total fund amount and the total of the amount granted. He stated that this allows for the security of both funds.

When asked why these funds are more desirable over the private sector funds **Mr. Burnell** stated that they typically have a one point lower interest rate than the bond banks. He also stated that the SRF program was established to be a vehicle to provide funding for projects and that, although in some ways it does compete with the bond banks, participating in this program brings additional money to Idaho to help communities with their needs.

VOTE ON MOTION: **Motion carried by voice vote.**

RS 22426: **Barry Burnell** presented **RS 22426** to the committee. He stated that the purpose of this legislation is to amend the Idaho water quality standards provision regarding insignificant degradations of water quality that are exempt from Tier II antidegradation review. This provision, known as the "de minimus exemption" as it currently stands in Code was disapproved by the EPA because it is inconsistent with the Clean Air Act.

When asked if this change had been reviewed with the EPA, **Mr. Burnell** stated that in the disapproval letter the DEQ received from the EPA this solution was one of the indicated options. He also confirmed that this option leaves the authority for these decisions with the DEQ and does not transfer it to the EPA.

MOTION: **Rep. Woodings** made a motion to introduce **RS 22426**.

In response to a question, **Mr. Burnell** stated that "simulative capacity" is the ability of a body of water to accept and absorb pollutants before the water reaches set water quality levels.

In response to concerns that the DEQ will continue to be no more stringent than the federal government, **Mr. Burnell** stated this legislation would give the DEQ discretion to determine whether or not there is significance and whether or not the Tier II review is needed or not.

In response to a question about what happens after DEQ determines that a particular degradation is "de minimus," **Mr. Burnell** stated that their recommendation and findings go to the federal agency granting the permit and they determine whether or not to grant the permit.

MOTION: **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 2:25 p.m.

Representative Raybould
Chair

Kaela Becklund
Secretary