

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, January 23, 2014

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Bair, Vice Chairman Guthrie, Senators Brackett, Tippetts, Rice, Nonini, Patrick, Buckner-Webb and Ward-Engelking

ABSENT/ EXCUSED: None

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.

CONVENED: **Chairman Bair** called the meeting to order at 8:01 a.m.

WELCOME: **Chairman Bair** welcomed the students from Brigham Young University.

PASSED THE GAVEL: Chairman Bair passed the gavel to Vice Chairman Guthrie to begin the rules review.

DOCKET NO. 46-0101-1301 **Vice Chairman Guthrie** introduced **Jodie Ellis**, Executive Director, Board of Veterinary Medicine, who presented **Docket No. 46-0101-1301**, Rules of the Idaho State Board of Veterinary Medicine (Board), a rule adopted by ISDA pending final approval of the 2014 Idaho State Legislature. Changes to the rule were per the recommendation by the Euthanasia Task Force (ETF). No comments or suggestions were received during the open period, no objections or public hearing.

Section 102 removes the term certification. Section 103.02.a.i, adds language to authorize certified veterinarian technicians to dispense and deliver certain medications and antibiotics (not controlled substances or anesthetics) under the direct supervision of a veterinarian.

Section 154.05 changes the time period from 14 calendar days to 3 business days for veterinarians to respond to the request for medical and vaccination records from an animal's owner, veterinarian, or anyone providing subsequent care. The Board believes this is a more reasonable time frame, is of more value to those providing the care, and should be easily complied with.

Changes to certain provisions in Rule 205 were made concerning the training and examination of certified euthanasia technicians. This rule modifies and specifies the procedures, passing grades, and clarifies certification requirements. Section 205, Subsection 03, a through g, is aimed at clarifying and defining steps of evaluating candidates for the certified euthanasia technician position. Written, clinical and a jurisprudence exam must be taken and passed before gaining certification. Ms. Ellis stood for questions.

Senator Patrick asked if the changes were reactionary and the result of lawsuits. **Jodie Ellis** responded no. The ETF wanted to be proactive in preparing for any anticipated problems.

Senator Brackett asked what issues, if any, they had with the 14 day response time. It seems that going from 14 days to 3 days doesn't seem to "hit the mark" either. **Jodie Ellis** responded most veterinarians comply long before the 14 day period, with most emergency situations receiving an immediate response. She stated that the 14 day time frame to comply with requests for records was just too long for the health and welfare of the animals.

Senator Rice and **Senator Tippetts** asked what would happen if an office is closed for an extended period of time and no records were available or accessible. Could this be considered non compliance by the Board, and if so what are the penalties. **Jodie Ellis** responded that disciplinary actions could ensue only if a written complaint is filed with the Board. She stated that there are always exceptions to the rule, and the Board would take this into consideration. She does not anticipate this particular scenario, as most offices have staff to handle these situations.

To further clarify, Ms. Ellis, called on **Carol Youtz**, Technical Records Specialist, Idaho State Board of Veterinary Medicine, who said that if a written complaint was registered with the board, there would need to be an investigation. Disciplinary penalties range from \$100 to \$5,000 per incident. **Jodie Ellis** added that most often, a letter of warning is issued, as opposed to full disciplinary action.

MOTION:

Senator Brackett moved to adopt **Docket No. 46-0101-1301** in it's entirety, but to reject Section 154.05, seconded by **Senator Rice**.

Senator Tippetts commented that even though he felt confident that the Board was reasonable in considering complaints, he felt a better middle ground could be reached. He supported this motion.

The motion carried by **voice vote**.

**DOCKET NO.
46-0101-1302**

Vice Chairman Guthrie introduced **Jodie Ellis**, Executive Director, Board of Veterinary Medicine, who presented **Docket No. 46-0101-1302**, Rules of the Idaho State Board of Veterinary Medicine, a rule adopted by ISDA pending final approval of the 2014 Idaho State Legislature. This rule was written to authorize continuing education credits for solo and panel presenters for courses approved by the board. Solo presenters could earn one hour of continuing education credits for each 50 minutes of actual course instruction. The presenter will be limited to earning a maximum of eight credit hours for presentations during a two year reporting period for continuing education credits.

She explained that licensees acting as panelists in an approved presentation could earn credits utilizing a formula that multiplies the actual number of course hours by two then divides by the number of panelists participating. For example, if the presentation is worth a total of four hours to the attendees and there are four people on the panel, each panelist would receive two hours of continuing education. (4 hours x 2 / 4 people = 2). Ms. Ellis stood for questions.

Senator Rice asked how the Board come up with the formula used for the panel presenters. **Jodie Ellis** responded this was accomplished through several Board meetings and discussions with Board members that have done panel presentations. The Board determined this a fair calculation of effort and time of the panelist.

Chairman Bair asked if a panel presenter would receive the same amount or more credit as those in the audience. **Jodie Ellis** responded a solo presenter will get 1 credit hour per 50 minutes of presentation. Panelists get less than the solo presenter because of less preparation time. They also get less credit than the attendees. **Chairman Bair** asked why a panel wouldn't at least receive the same amount of credit as the audience since they are sitting through the entire meeting and hearing the same information in the presentation. **Jodie Ellis** referred back to the formula, explained about the level of preparation and attention, that the panelists are there for just a specific topic, as opposed to the solo presenter. She did say she could see the Chairman's point, though, and that this was something to consider.

Chairman Bair stated that after reading this rule several times and listening to the input from the other members, the weaknesses became apparent. He stated he would like the Board to review this.

Senator Tippetts stated he liked the idea of giving credit to the presenters, both the solo and panelist, considering the amount of effort that goes into preparation. He felt that the comment made by Chairman Bair, regarding a panelist getting at least as much credit as an audience participant, is valid. He agrees that the Board should consider a change in this calculation.

Vice Chairman Guthrie asked if there were any additional questions or comments from the Committee or audience.

Chairman Bair commented on the Committee's struggle with some issues and concerns in their review of the rules and the importance that is placed on their consideration and decisions they needed to make. He stated that from his experience as both a solo and panelist presenter, he understood first hand the amount of effort required for preparation. He felt it would be unfair to limit the amount of credits of the panelist to less than that of an audience participant. He would like the Board to review this rule and make changes to consider this.

MOTION:

Chairman Bair moved to reject **Docket No. 46-0101-1302** with a second by **Senator Rice**.

Senator Rice agreed with the idea of the rule and the importance of giving credit for continuing education. He felt it should be limited to the same credit as attendees, but a panelist should not be treated different than a solo presenter. He supports the motion.

Senator Tippetts asked what impact the rejection would have to the Board. **Ms. Ellis** referred the question to **Carol Youtz**, Technical Records Specialist, Idaho State Board of Veterinary Medicine, who stated that if the rule is not changed today, it will mean none of the presenters will earn any credit.

Although **Senator Tippetts** agreed with Chairman Bair and the motion, he thought it better to pass it and ask the Board to revisit this and consider the comments and opinions of the Committee about giving additional credit for members of a panel.

Chairman Bair agreed with Senator Tippetts, and asked for permission from Senator Rice to withdraw the first motion. **Senator Rice** agreed and suggested rejecting Section 105.05.b and c.

Senator Buckner-Webb agreed with Senator Rice, and stated that having also participated on panels, as most of the Committee members have, they have first hand knowledge of the amount of time for preparation that is needed. She felt it was unfortunate that the credits earned are not increased. She would be willing to support the rule for the short time as it stands.

MOTION:

Senator Ward-Engelking made a motion to approve **Docket No. 46-0101-1302**, but reject Section 105.05.b and c. Second by **Senator Rice**.

Senator Ward-Engelking commented that she agreed that panelists should receive credits for their efforts. She felt that this motion would accomplish this. She agreed that they should receive more though.

Senator Nonini asked if the House had voted on this rule. **Jodie Ellis** responded that the House has passed it. **Senator Nonini** then asked Vice Chairman Guthrie if it takes one Committee to approve a rule and two to reject a rule. **Vice Chairman Guthrie** responded yes, that is correct.

Chairman Bair said if the rule or a portion of the rule is rejected, a resolution will be drafted and will then go to the House and they will have to act on the resolution. If they reject the action of the Committee, the rule will stand as they previously approved.

Senator Ward-Engelking asked if the motion should be withdrawn, with a verbal understanding that this rule will be revisited and changed per the recommendations of the Committee.

Senator Tippetts stated he does not agree with this formula as it stands, but at least it will be giving some credit, which is better than none. He would like to see this revised to consider a more fair credit amount given to the panelist.

Chairman Bair asked the Committee to have a discussion prior to a substitute motion. He asked them to consider a vote to pass the rule, and he would make an official request to the Board that they revisit this credit issue as found in Section 105.05.b and c, and have a negotiated rulemaking process to come up with a better solution. The Committee agreed this would be the best solution.

Senator Rice reiterated the importance of this issue, agrees that the rule should be passed, and that by this vote on this motion, it will put on record how the Committee feels about this issue; panelist should be given the same consideration in earning credits as solo presenters. He agreed this rule needs work.

**SUBSTITUTE
MOTION:**

With permission from Senator Ward-Engelking, **Chairman Bair** made a substitute motion, seconded by **Senator Ward-Engelking** to adopt **Docket No. 46-0101-1302**.

Chairman Bair told Ms. Ellis, that it is the Committee's intention to pass the rule, but would like the Board to revisit Section 105.05.c. A formal letter of request to reopen the rule for revision will be coming from the Committee

**DOCKET NO.
53-0101-1301**

Vice Chairman Guthrie introduced **Kelly Olson**, Administrator, Idaho Barley Commission, who presented **Docket No. 53-0101-1301**, Rules of the Idaho Barley Commission, a rule adopted by ISDA pending final approval of the 2014 Idaho State Legislature. The changes included housekeeping additions to make sure rules conform with administrative rules. There would be a change to Section 100 to strike the reference to the .02 cents per hundredweight Idaho barley tax imposed on barley grown, delivered into, or stored within the State. She stated that this conforms with S1304, that allowed for striking any reference to a fixed assessment from the rules. This change is consistent with the Idaho Wheat Commission rules which do not stipulate any assessment rate. Ms. Olson stood for questions.

Further clarification was requested from **Senator Tippetts** regarding this change, and he asked if this would give the commission authority to raise the rate to .04 next year. **Ms. Olson** explained that the motion adopted last February 2013, was to increase the assessment from .02 cents to .03 cents per hundredweight to end in 2018, so on July 1, 2013, the new assessment rate of .03 cents per hundredweight went into effect. This motion did not bind any future commission from revisiting that assessment rate, because the underlying statute gives the Board the authority to set the assessment up to .04 cents per hundredweight. That motion would allow the current Commission to raise some additional funds for revenue to invest in research funding, but not stay at this rate forever. She said 100 percent of the additional revenue raised has been allocated to research.

Senator Patrick recalled that when he carried the bill, the intent was to allow the assessment to go to .04 cents, that it said nothing about oversight by rules.

MOTION: **Senator Patrick** moved, seconded by **Senator Buckner-Webb** to adopt **Docket No. 53-0101-1301**. The motion was carried by **voice vote**.

PASSED THE GAVEL: Upon completion of the rules review, Vice Chairman Guthrie passed the gavel back to Chairman Bair.

Chairman Bair thanked the Committee for all their hard work in reviewing the rules. Due to time constraints, he asked Kelly Olson if she would mind rescheduling her annual presentation.

PRESENTATION: **Chairman Bair** introduced **Roger Chase**, Chairman of the Idaho Water Resources Board (IWRB). Mr. Chase thanked the Committee for the opportunity to present, and introduced the members of the Water Resource Board.

Mr. Chase began by outlining the tasks that will be undertaken this year:

1. Develop a state water plan with revisions completed to be presented during the 2015 session.
2. Work on a plan for sustainability of water in Idaho, and hope to have the preliminary plan ready for the 2015 session.

He then went on to explain about the Water Sustainability Initiative Funding request that will be presented to JFAC for various projects throughout the state, totaling \$15 million. It is the hope of the Board that these projects will be approved and that they can move forward on them.

- \$4 million. Mountain Home Air Force Base (AFB) Water Rights & Supply. \$2-3 million would be used to buy a portion of the unused water rights on the Snake River from the Simplot Corporation, and \$1 million to make the preparations for delivery to AFB.
- \$4 million - Eastern Snake Plain Aquifer (ESPA) Managed Recharge Infrastructure & Expenses. The money will go to constructing recharge sites along the Snake River Plain.

- \$500,000 - Northern Idaho Future Water Needs Studies. Some surrounding states, specifically Washington, have been looking at Northern Idaho water. This money will help to identify Northern Idaho water usage which will help if situations arise regarding these states pushing Idaho for its use.
- \$2 million - Galloway Reservoir Project. The funds would be used for studies to determine whether this is the best site to build a dam. This is the most promising site in the state. The proposed reservoir would hold 750,000 acre feet of water and would cost approximately \$500-600 million dollars. They hope to use funds from the State and not rely on federal funds.
- \$2.5 Million - Island Park Reservoir Enlargement. These funds are for study to raise the dam three feet. This will create about 30,000 acre feet of water, which is a small, but important amount.
- \$1.5 Million - Arrowrock Enlargement. This funding is to continue the studies on raising the height of this dam and will be matched by the Army Corps of Engineers (Corps). This is a Corps project because of the flooding potential in the Treasure Valley.
- \$500,000 - Water supply Bank Computer Infrastructure & Costs. This funding will help update their computer software systems.

Mr. Chase stood for questions.

Responding to various questions from the Committee regarding the AFB and the Swan Falls Agreement, **Roger Chase** explained that the Simplot Corporation bought the water rights from a canal company that never used them. Simplot understood the importance of stabilizing the aquifer that would supply the needed water, and offered to sell half of the water rights to the State to make sure the AFB has water and keeps running. They have requested that the Board not lease the water to someone else that will compete against them, making the AFB a perfect choice. Until the system to provide this water to AFB is up and running, the water will remain in Swan Falls to help maintain that level.

Senator Brackett asked what would happen if the water fell below the level needed at Swan Falls. **Roger Chase** responded that it might eventually lead to curtailing water, with the junior rights holders being affected.

Senator Nonini asked if Mr. Chase has heard of any of the Washington tribes going after water in Northern Idaho. **Roger Chase** responded that it is not necessarily the tribes, although there has been some activity with them seeking more water. More importantly though is the City of Spokane, who would like to keep the flows in the Spokane river higher. All of their wells for the city are right next to the river. Their solution is to make Idaho water their solution, and take water out of Lake Pend-Oreille and transfer it to the river. Oregon has been mining their aquifers too aggressively, and has also been looking at Northern Idaho to supplement water. He said that it is critical to be able to account for our usage and that the water needs studies would help with this.

Chairman Bair introduced **Gary Spackman**, Director of the Idaho Department of Water Resources (IDWR), who due to the time constraints of the Committee, quickly went through his presentation and touched on a few topics concerning the Department.

Director Spackman thanked the Committee for having him and said that the IDWR was remiss in not coming sooner. He spoke to the water issues and the low snow pack. Southern Idaho and particularly the Snake River area is a big concern. This year, because of the low carryover in reservoirs, there is a high likelihood that unless we have an above normal snow-pack in the mountains, that a curtailment order may be required. He explained that this would result in shutting down the irrigation of thousands of acres across the Eastern Snake Plain. Historically, a high water/snow-pack there should be no curtailment order and no mitigation obligation, a normal water/snow-pack will probably be at least a curtailment order of up to 30,000 acre feet and a low water/snow-pack could result in a curtailment of 230,000 acre feet.

Director Spackman talked about the restructuring of the Department. Matt Weaver is the new Deputy Director. He touched briefly on the Department's annual budget needs. He added more to the AFB water issue. The department has spent four to five years trying to figure out what to do with the water supply issue there, and feels very fortunate to be able to acquire the water rights from Simplot. He stated that the draft legislation dealing with the appropriation for ground water recharge and accrual of recharge credits would help with this as well. He said the Department has been working very hard to alleviate the backlogs on the transfers, permits, ownership changes and lease applications. It has been a concerted effort of a year and a half of hard work, they have made remarkable progress in reducing these. He stood for questions.

Roger Chase stood and stated for clarification, that the money that the IWRB is asking for is a one-time request. **Chairman Bair** said he would be meeting with the Committee to discuss this further, then would be presenting their recommendation to JFAC.

Chairman Bair thanked everyone for attending, and the Committee for all their hard work in reviewing the rules.

ADJOURNED: **Chairman Bair** adjourned the meeting at 9:37 a.m.

Senator Bair
Chair

Denise McNeil
Secretary