

MINUTES
HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Wednesday, January 29, 2014

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Luker, Representatives Nielsen, Bolz, Bateman, McMillan, Perry, Sims, Dayley, Horman, Malek, Packer, Trujillo, McDonald, Burgoyne, Meline, Ringo

**ABSENT/
EXCUSED:** None

GUESTS: Dennis Tanikuni, Idaho Farm Bureau; Will Hart, ICUA; Holly Koole, IPAA; Kristyn Kibinenman, Risch-Pisca; Raeleen Welton, RMP; Russell Westerberg, RMP; Ed Hawley; Kendra Dean, Recyclers; Mike Ressler, North American Recycling; Rich Hahn; Amber Pence, City of Boise; Michael Kane, ISA; William Flink, POST; Neil Colwell, Avista Corp; Miguel Legarreta, Realtors

Chairman Wills called the meeting to order at 1:32 PM.

MOTION: **Rep. Meline** made a motion to approve the minutes of the Bateman Subcommittee meeting of January 20, 2014. **Motion carried by voice vote.**

MOTION: **Rep. Ringo** made a motion to approve the minutes of the January 21, 2014, meeting. **Motion carried by voice vote.**

RS 22517: **Rep. Perry** presented to the committee **RS 22517** which certifies that a subsidy received for health care coverage through the Idaho health insurance exchange does not qualify as a factor for indigency determination in regards to the public defender system.

MOTION: **Rep. Luker** made a motion to introduce **RS 22517**. **Motion carried by voice vote.**

**DOCKET NO.
11-1101-1301:** **William Flink**, POST Division Administrator, presented **Docket No. 11-1101-1301**. Mr. Flink explained these Pending Rule amendments are to better define the minimum employment standards for POST Council and law enforcement agencies. The proposed amendments will assist POST in complying with the rulings of the Idaho Supreme Court by clarifying vague terms, to prevent arbitrary or discriminating enforcement of the rules, and to better prescribe standards in determining suitability for law enforcement employment. He said the second purpose of these Pending Rules is to make available to students attending POST–approved training in colleges and universities, the same due process provisions when applying for training as afforded to those individuals employed by an Idaho law enforcement agency. Mr. Flink stated, at the present time, the definition of moral turpitude has been left up to the discretion of either the POST Division Administrator and/or the POST Council. The term "moral turpitude" has been the basis of disqualification for public service and some professions throughout the history of the United States. In Idaho, the courts have only gone as far as to find "moral turpitude" as: an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. Mr. Flink said the paramount purpose of the moral turpitude standard is not to punish, but to protect the public, the courts, and the profession from unsuitable practitioners.

In response to questions, **Mr. Flink** assured the committee that a Temporary Rule would be drafted to address the concerns brought to the POST by the Senate and House Judiciary and Rules Committees. **Rep. Dayley** asked that the committee be notified as to the process and completion of this Temporary Rule so they can review the Rule to ensure all their concerns were addressed. Mr. Flink affirmed that he would notify the committee. **Michael Kane**, representing the Idaho Sheriffs Association, notified the committee of their support of the Docket emphasizing the importance of adopting these Rules now because, if not, another year will pass before these corrections can be made.

MOTION: **Rep. Burgoyne** made a motion to approve **Docket No. 11-1101-1301. Motion carried by voice vote.**

RS 22476: **Rep. Malek** presented to the committee **RS 22476** which amends the Scrap Metal Act. **RS 22476** will reduce the circumstances by which a felony charge may be imposed on scrap metal dealers, clarify the definition of scrap metal dealers, and provide for more specific detail on the circumstances by which a scrap metal dealer must make video or photographic images when they purchase non-ferrous metals. Rep. Malek stated it also provides reasonable protections for scrap metal businesses when they purchase nonferrous metal from the general public when ownership of the material cannot be verified and clarifies the duration of records retention.

MOTION: **Rep. Nielsen** made a motion to introduce **RS 22476. Motion carried by voice vote.**

RS 22564: **Rep. Luker** presented to the committee **RS 22564** which will update Idaho law concerning infraction penalties. Currently the law gives the Supreme Court the authority to set infraction penalties. He said this amendment would restore that function to the legislature except where discretionary sentencing is specifically given to the courts. It will also increase infraction penalty limits to \$300 from \$100 to allow for more flexible use of infractions instead of misdemeanors. Misdemeanors can impose jail time and gives the defendant a right to a jury trial. Rep. Luker stated because the Supreme Court has defined the right to a public defense as someone who is facing jail time, this change will reduce the cost and work load by public defenders. This proposed legislation has been reviewed by the Public Defender Task Force who voted to support it.

MOTION: **Rep. Trujillo** made a motion to introduce **RS 22564. Motion carried by voice vote.**

RS 22544: **Rep. Luker** presented to the committee **RS 22544** which decriminalizes land use violations, making them infractions instead of misdemeanors.

MOTION: **Rep. Packer** made a motion to introduce **RS 22544. Motion carried by voice vote.**

RS 22545: **Rep. Luker** presented to the committee **RS 22545** which decriminalizes building code violations, making them infractions instead of misdemeanors.

MOTION: **Rep. Meline** made a motion to introduce **RS 22545. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:51 PM.

Representative Wills
Chair

Francoise Cleveland
Secretary