

MINUTES  
JOINT MEETING  
**HOUSE STATE AFFAIRS COMMITTEE  
SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Thursday, January 30, 2014

**TIME:** 8:30 A.M.

**PLACE:** WW02

**MEMBERS:** Chairman Loertscher, Vice Chairman Batt, Representatives Anderson(1), Andrus, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, McMillan, Monks, Packer, Smith, Gannon, Woodings

Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett, Werk

**ABSENT/  
EXCUSED:** Representative(s) Crane, Palmer. Senator(s) Fulcher, Hill, Siddoway.

**GUESTS:** Sharon Kiefer, IDFG; Elizabeth Criner, JR Simplot; Michael Chakrun, Idaho State Tax Commission; Elli Brown, Veritas Advisors; Raeleen Welton, ICOA; Tamara Prisock, DHW; Jack Lyman, Idaho Mining Association; Mary Symms-Pollot, Capitol Commission; W. Dallas Burkhalter, IDFG; Dennis Stevenson, Department of Administrative Rules; Bev Barr, DHW.

**Chairman Loertscher** called the meeting to order at 8:30 a.m.

**Dennis Stevenson**, Administrative Rules Coordinator, gave a short introduction of how the negotiated rulemaking process works. He stated the number of Rules that included negotiated rulemaking has grown every year. He said the current percentage of Pending Rules that were negotiated this year is around 28 percent of the total Rules proposed. He stated there are Rules that should not be negotiated because they are reflections of changes in State law.

**Michael Chakarum**, Tax Policy Manager, Idaho State Tax Commission, stated the Commission is committed to the negotiated rulemaking process. He said that in 2012 the Commission started negotiated rulemaking. He stated there are thirteen different tax types- most are property, income tax and sales tax. He said there are different committees for each section who have expertise in the subject. He said if a significant number of the public request a formal hearing, they do so. He stated the Commission follows the statutory requirements. He said they publish Rules in the bulletin, and send emails to prospectively affected parties so the public is notified of when the committees meet. He said they accept all forms of public input. He stated the committees start by drafting proposed Rules all of which are listed on the website. Then if the Rule has been agreed upon by the committee, it goes through the formal rulemaking process with the Commission. He said some committees take votes on Rules and some do not. Even if the consensus is not achieved, the committees can proceed with the Rules if they feel it is necessary. The Department's next step is to take public opinion and comments.

In response to committee questions, **Alan Dorfest**, Property Tax Rules Committee, Idaho State Tax Commission, stated his committee has the responsibility to work with counties and other parties who would administer the Rules set by the Commission. If there is a difference in opinion, the Commission relies on their Deputy Attorneys General to give input and advice regarding the Commission's rights and responsibilities. He stated the committees try to achieve as much consensus as possible to fit everyone's needs and make every attempt to resolve any issues.

In response to committee questions, **Mr. Chakarum** stated the intent of negotiated rulemaking is to extend the time frame for public comment which allows the public more participation. He said the Commission would benefit with an increase in funding and personnel.

**Curt Fransen**, Director, Idaho Department of Environmental Quality, gave an introduction of **Doug Connery**, Deputy Attorney General, and **Paula Wilson**, Paralegal and Rulemaking Coordinator. He stated the Department consults with their resident Deputy Attorneys General throughout the rulemaking process. He stated that for the past few years, negotiated rulemaking has been the default and majority of their rulemaking. He stated they follow federal regulations which are stricter than state regulations and all proposed Rules are posted on the website for the public. The webpage is updated as the rulemaking proceeds. The website also provides an opportunity for the public to receive automatic emails of each docket. He stated there is usually a minimum of one hearing per docket but there are usually more. He said the Department posts all public comments on the webpage and maintain various email lists to contact interested parties when in the negotiated rulemaking process. He said the Department provides information to anyone that wants to participate. They encourage participants to provide comments on the draft Rule language and consider all comments both oral and written received during negotiated rulemaking. He said there are limited circumstances in which the Department may proceed with formal rulemaking notwithstanding opposition from a portion of the public.

In response to committee questions, **Mr. Fransen** stated the Department changes the Rules almost every year and their email lists are inclusive, but allows the option for others to join.

**Sharon Kiefer**, Deputy Director, Department of Fish and Game, stated the Department generates a lot of Rules. She stated the Department is just beginning to deal with the negotiated rulemaking process. She said they are learning to integrate public comments into the negotiated rulemaking process. She stated they post all the information about the Rules on their website. She said the Department first starts with a draft Rule and notifies specific individuals, usually permit and/or license holders or association members, who would prospectively be affected by the Rules. Challenges come when the Rules affect interested parties who are not licensed, in that case the parties have to contact the Department via telephone or gather information from the website to obtain rulemaking information. She stated that according to the statutes, the Commission is not required to follow an agency's input on a Rule and that the Commission has the authority to proceed on a proposed Rule or with a different Rule without explanation, as outlined in the Administrative Procedures Act.

In response to committee questions, **Ms. Kiefer** stated the Department posts its draft Rule proposals and media releases on their website. She said they have a license population of around 300,000 people and so they have large email lists as well. However, they cannot reach out to all licensees.

**Tamara Prisock**, Rules Unit, Idaho Health and Welfare, stated the Department maintains 76 chapters in the Administrative Code, representing 70 programs. She said the Department conducts formal and informal negotiated rulemaking. She said the Department holds different types of informal rulemaking negotiations including meeting with task forces, advisory councils or committees, advocate or provider associations, via teleconference or video conferences. She stated the Department does not conduct rulemaking negotiations when there is no room for negotiations in a proposed rule. She said most of the Department's Rule changes are based on changes that are non-negotiable due to federal regulations and laws, grant guidelines, State statutes, cost containment, and health and safety requirements aimed to protect children, vulnerable adults and Idaho citizens. She said the Department has established formal stakeholder groups and have formal and informal negotiations and public hearings on specific Rule changes.

**ADJOURN:** There being no further business to come before the Committee, the meeting was adjourned at 10:14 a.m.

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Representative Loertscher  
Chair

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Kasey Perkins  
Secretary