

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, February 05, 2014

**TIME:** 9:00 A.M.

**PLACE:** Room EW40

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

**ABSENT/  
EXCUSED:** None

**GUESTS:** The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of session. Following the end of session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

**Chairman Loertscher** called the meeting to order at 9:00 a.m.

**H 427:** **Rep. Luker** presented **H 427**, a bill that amends the Idaho Freedom Exercise of Religion Act to make it applicable in any judicial action where the burdening of the exercise of religion is an issue when based upon government action, regardless of whether the government is a party to the action.

In response to committee questions, **Rep. Luker** stated the intent of the bill is not to sort out issues between two parties but when the government is a party to the action. He stated the bill is consistent to laws that already exist. He explained this legislation creates a balancing test of the Fourteenth Amendment, and is used when the state has a compelling interest. He stated that if the city prosecutes the case, they can use the Religious Freedom Restoration Act (RFRA) of 1993 as a defense. He stated this legislation does not undue local city or county laws against discrimination it simply invokes the balancing test.

**Diane Tipton**, self; **Linda Crozier**, self; **Mistie Tolman**, self; spoke in opposition to **H 427**, stating it was offensive and unnecessary and opens the door for discrimination of members of the LBGT community.

**MaryAnne Jordan**, with the City of Boise, spoke in opposition to **H 427**. She stated the City has concerns that the city ordinances that were created in 2012 to prohibit discrimination would be void. She stated **H 427** codifies discrimination.

In response to committee questions, **Ms. Jordan** stated businesses are not coming to Idaho because of the fear of discrimination but she had no information of how many businesses decided against coming to the State. She also stated the legislation is left up to interpretation on what a person's religious beliefs are.

**Brian Thom**, Bishop, Episcopal Church of Idaho, representing the following and introduced **Karen Hernandez**, United Methodist Church of Boise; **Rev. Marc Shlegel**, Hyde Park Mennonite Fellowship; **Rabbi Dan Fink**, Congregation Ahavath Beth Israel; **Rev. Dana Worsnop**, Boise Unitarian Universalist Fellowship; **Lelilewa Teno Rikiho**, Amaraji Maha Marai Temple; **Mark Harris**, Amaraji Maha Marai Temple; **Edward Mahola**, Amaraji Maha Marai Temple; **Rev. Debbie Mallis**, Hillview United Methodist Interfaith Equality Coalition; **Jenny Wilson**, First United Methodist; **Sister Anayi Marie**; **MaryLou Young** and **Barbara Nixon**. He stated they are opposed to **H 427** because they feel the legislation would not allow religious freedom. He stated it would make one religion superior to another. He said we are free to choose our religious beliefs but we are not allowed to impose those

beliefs on others. He stated the legislation is unnecessary and has unintended consequences that prohibit religious freedom.

**Kathleen Durkin**, student at Boise High School, spoke **in opposition** to **H 427** and stated it is unnecessary due to the First Amendment rights of religious freedom. She stated people could be discriminated against if this legislation is passed. **Chase Hutchinson**, student at Wood River High School, spoke **in opposition** to **H 427** and stated it is a threat to the system. He stated religious freedom is already protected. He asked the committee to support equality and nondiscrimination.

**Julie Lynde**, Cornerstone Family Council, spoke **in favor** of **H 427** and stated the legislation is a short technical update to the current Idaho Religious Freedom Act which was supported by both Republicans and Democrats. She stated RFRA protects all citizens. She said the current law only protects people when the government files suit but also between private parties. She stated this bill is a needed update to protect religious freedom for everyone. **Barry Peters**, Cornerstone Family Council, spoke **in favor** of **H 427** and stated RFRA has been on the books for 14 years and there has never been discrimination caused by it. He stated the bill extends our religious freedoms in the private civil arena as well. This bill ensures RFRA continues to protect the freedom of religion for the citizens of Idaho.

**Susan Boyle**, Integrity Idaho, spoke **in opposition** to **H 427** and stated the bill opens a Pandora's box of the freedom of religion that would abuse the freedom.

**Lisa Strobes**, representing herself, spoke **in opposition** to **H 427** and stated its important for the legislature to craft laws to protect citizens of Idaho. **Scott Nicholson**, representing himself, spoke **in opposition** to **H 427** and stated the language in the bill is unclear and will lead to more lawsuits. **Ben Earwicker**, representing himself, spoke **in opposition** to **H 427** and stated this bill provides legal cover for discrimination. He said the bill is unnecessary and the citizens have a right to religious freedom which is already protected by federal and state laws and this bill is not an extension of those laws. He stated freedom of religion is not a freedom to discriminate.

**Dede Shelton**, representing herself, spoke **in opposition** to **H 427** and stated she is worried the bill will affect school age children and people who provide emergency services. **Salem Djembe**, representing himself, spoke **in opposition** to **H 427** and stated the freedom to exercise his religion is important to him but not everyone agrees with his beliefs. He said the bill is a loose interpretation of the author's religious faith. He appealed to the committee to raise the bar on decency. **Patrick Metz**, representing himself, spoke **in opposition** to **H 427** and stated the bill will put him at risk of further discrimination for being other than heterosexual.

**John Fritz**, representing himself, spoke **in opposition** to **H 427** and stated the bill does not protect religious freedom. **Crispin Gravatt**, representing himself, spoke **in opposition** to **H 427** and stated the bill has unintended consequences of discrimination. **Ben Wilson**, representing himself, spoke **in opposition** to **H 427** and stated there are unintended economic consequences which make it hard for recruiters to attract people to Idaho for work. He said Idaho already has the lowest wages in the country and we need to bring higher paying jobs to Idaho. He said we can't because the theme in Idaho is that if someone is different, they are not welcome. He also stated the bill is a form of bigotry because it violates other city and county ordinances. **Zack Vass**, representing himself, spoke **in opposition** to **H 427** and stated this bill is upsetting for the refugee and immigrant population in Idaho who are doing their best to get by with existing barriers, such as language. He stated this bill will only affect their lives even more and only make things harder for them.

**Paul Rolig**, representing nonreligious voters, spoke **in opposition** to **H 427** and stated the entire section on special rights for religious freedom should be repealed. He stated all Idaho citizens have complete religious freedom anyway. **John McCristie**, representing himself, spoke **in opposition** to **H 427** and stated the language in the bill is overbroad and allows for discrimination actions to be held based on religion. He said the bill removes local control which currently protects everyone. **Emily Jackson-Edney**, representing herself, spoke **in opposition** to **H 427** and stated the bill is an ill-conceived, discriminatory bill. She stated the words are so broad that anyone could be discriminated against. She said that religious protection does not allow discrimination. She urged the committee to kill the bill.

**Lauren Bramwell**, representing herself, spoke **in opposition** to **H 427** and stated there are technical issues with the bill as well as unintended consequences. She stated the technical issues consist of adding private parties which brings a burden to corporations and businesses. She stated the compelling interests is a three-prong test which includes strict scrutiny, harmful for others who aren't related to the action and disabilities. She stated the unintended consequences are that people are held victim and there is possible justification for discrimination if the bill passes.

**Melissa Wintrow**, self; **Curtis Hagan**, self; **Anna McClain-Sims**, self; **Megan Carter**, self; **Alisha Klegg**, self; **Carlos Negrete**, self; spoke **in opposition** to **H 427**. **Hannah Campbell**, representing herself, spoke **in opposition** to **H 427** and stated she understood the right for religious freedom but it shouldn't be an excuse for hatred. She stated that members of the LGBT community are already discriminated against all the time.

**Monica Hopkins**, Executive Director, ACLU, spoke **in opposition** to **H 427** and stated the bill is costly, unnecessary, and makes Idaho a haven for religious discrimination. She stated this bill will grant private individuals the right to sue each other for differing religious beliefs. She said this could also affect employers in regards to individuals who use their religious beliefs to refuse to work. She stated the language in the bill is too broad and it aims a solution to a nonexistent problem. She said this bill opens a Pandora's box of issues regarding different religious beliefs.

**Hanna Brass-Greer**, Planned Parenthood, spoke **in opposition** to **H 427** and stated they support religious freedom not discrimination based on religious beliefs. She said Idaho is already covered by the Idaho Human Rights Act and this bill puts religious beliefs over a person's rights.

**Paul Stark**, General Counsel, Idaho Education Association, spoke **in opposition** to **H 427** and stated the Association supports freedom of religion but there is a deviation from the RFRA. He stated it may put teachers in a tough spot wherein they are held personally liable if they adhere to this bill.

In response to committee questions, **Mr. Stark** stated the Respondent Superior doctrine is regarding negligence as in- the employer is responsible for the actions of its employees. He stated the school districts would fall under this doctrine if this bill was passed and could cause issues which would not be covered by the insurance policies.

**Mark Harris**, representing himself, spoke **in opposition to H 427** and stated the bill is unnecessary and we are all human beings with the same rights. **Brianna Dyer**, representing herself, spoke **in opposition to H 427** and stated she did not want her rights infringed upon. She said the language is too broad and she does not want her religion to be a reason for someone to discriminate against others. **Tamara Johnson**, representing herself, spoke **in opposition to H 427** and stated Idaho already has laws in place to restrict religious discrimination. She said this bill opens up the door for discrimination because Idaho is a hub for immigration and with that comes diversity of religious beliefs which could bring unintended consequences. She stated the bill would divide communities in many ways.

**Michael Reineek**, representing himself, spoke **in opposition to H 427** and stated the language in the bill is too broad and will burden the courts with unnecessary cases which will push the State to religious anarchy. **Grant Olsen**, representing himself, spoke **in opposition to H 427** and stated he is worried this bill would allow service members to discriminate against others who do not share their beliefs.

**Cody Hafer**, representing himself, spoke **in opposition to H 427** and stated the bill discriminates against certain groups of people even though it might not be the intent.

**Judy Cross**, Interfaith Alliance of Idaho, spoke **in opposition to H 427** and stated she is committed to freedom of religious expression but does not support religious freedom becoming religious abuse. She stated the language is too ambiguous.

**Laurie Annshaw**, representing herself, spoke **in opposition to H 427** and stated there needs to be a separation of church and state. She stated in 2013, the United States Department of Consensus estimated 1,612,136 people in Idaho. The U.S. Religious Consensus published in May 2012, showed there was a 50% increase in Muslim faith, and that the Buddhist faith is the largest non-Christian group in Idaho. According to another survey, Idaho has a split population of religions stating 23% Mormon tradition, 22% Evangelical Protestant tradition, 18% Catholic tradition, 16% mainline Protestant tradition, 1% Jehovahs Witness tradition, less than 1/2% black Protestant tradition, less than 1/2% Orthodox tradition, less than 1/2% other Christian traditions, less than 1/2% Jewish tradition, less than 1/2% of Muslim tradition, less than 1/2% Buddhist tradition, less than 1/2% Hindu tradition, less than 1/2% other world religions, 2% claim other faiths, 18% claim unaffiliated, less than 1/2% don't know or refuse to state their faith. The entire population of non-Christian groups are equal to the amount of members of the Mormon tradition of 23%. She stated we need to foster peace within our communities and not hatred or discrimination.

**Laurinda Williams**, representing herself, spoke **in opposition to H 427** and stated the bill sets a bad example to the country regarding allowing discrimination.

**Lisa Theobald**, representing herself, spoke **in opposition to H 427** and stated the bill is a moral issue and the reputation of Idaho is at stake. **Peter Mundt**, representing himself, spoke **in opposition to H 427** and stated his fear is the bill would undue the City Ordinance which protects against discrimination. He stated he thinks this bill will bring hate groups to Idaho. **Lisa Sanchez**, representing herself, spoke **in opposition to H 427** and stated she has found that religion has a strong impact on people in Idaho. She stated she has seen discrimination within the state on all levels and this bill creates hate in the state. She stated this bill does not unite people, it separates them.

**Madelynn Lee Taylor**, representing herself, spoke **in opposition to H 427** and stated she has been discriminated against by the Idaho Division of Veterans Services who refused to bury her and her partner in the veterans cemetery and this bill will add to that discrimination. **Pamela Chiarella**, representing herself, spoke **in opposition to H 427** and stated the bill is a repression under the cover of religious freedom. She said the bill is illegal and unconstitutional.

**Rep. Luker** was recognized to close testimony on **H 427**. He clarified that RFRA was never deemed unconstitutional by the Courts, the Courts said the language was too broad not that a RFRA was not allowed. He suggested the bill be sent to General Orders with the word "defensively" added on line 25. He said that will take care of any issues raised during this meeting in regards to discrimination. He stated it was never the intent of this bill to be used as a sword, but as a defense.

**ORIGINAL MOTION:**

**Rep. Barbieri** made a motion to send **H 427** to General Orders. He stated he is a co-sponsor of the bill and agrees with the changes suggested.

**SUBSTITUTE MOTION:**

**Rep Anderson(1)** made a substitute motion to **HOLD H 427** in committee.

**Rep. Woodings** spoke to the substitute motion and stated this bill could lead to discrimination. **Rep. Gannon** spoke to the substitute motion and stated the bill still has too many problems.

**Rep. Crane** spoke to the original motion and stated sending the bill to General Orders would give the opportunity to make necessary changes. **Rep. Batt** spoke to the original motion and stated it shows a lot from the sponsor to propose a solution to the problems identified.

**VOTE ON SUBSTITUTE MOTION:**

Roll call vote was requested on the substitute motion to **HOLD H 427** in committee. **Substitute motion failed, 5 AYE, 11 NAY. Voting in favor** of the substitute motion: **Reps. Anderson(1), Packer, Smith, Gannon, Woodings** **Voting in opposition** to the substitute motion: **Reps. Loertscher, Batt, Andrus, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, McMillan, Monks.**

**VOTE ON ORIGINAL MOTION:**

Roll call vote was requested on the original motion to send **H 427** to General Orders. **Original motion carried, 11 AYE, 5 NAY. Voting in favor** of the original motion: **Reps. Loertscher, Batt, Andrus, Luker, Crane, Palmer, Sims, Barbieri, Holtzclaw, McMillan, Monks.** **Voting in opposition** to the original motion: **Reps. Anderson(1), Packer, Smith, Gannon, Woodings.** **Rep. Luker** will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 12:38 p.m.

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Representative Loertscher  
Chair

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Kasey Perkins  
Secretary