

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 10, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Lodge, Siddoway, Stennett and Werk

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 McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present. The first order of business was a vote on the three gubernatorial appointments heard at the previous meeting.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Winder** moved to send the gubernatorial appointments of Richelle Sugiyama, Tom Kealy and Susan Simmons to the Endowment Investment Fund Board to the floor with the recommendation that they be confirmed by the Senate. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

S 1277 Relating to the Exchange of State Land – **Senator Keough** requested to have this bill reassigned to the Resources and Environment Committee (Resources). The intent was to have the bill returned to Resources for further discussion.

MOTION: **Senator Davis** moved to send **S 1277** to the floor with the recommendation that it be reassigned to Resources. The motion was seconded by **Senator Stennett**.

VOTE: The motion carried by **voice vote**.

RS 22806 A Joint Resolution Proposing to Amend Article IX, § 10 of the Idaho Constitution Relating to the Sale of University Lands; presented by Senator Keough.

Senator Keough explained that the intent is to print this joint resolution for a constitutional amendment and bring it back to this Committee for a full hearing at a time the Chairman deems appropriate. By printing the RS, the bill would be out on the internet and people would have time to review it. The legislation provides that university lands cannot be sold for less than the appraised price. It also proposes that the amount of lands that can be sold to any one person or entity be set at 3,200 acres. These amendments, should they pass the Legislature and be adopted by the citizens of Idaho, would allow the State Board of Land Commissioners (Board) to dispose of university lands in a prudent and reasonable manner that meets the constitutional mandate of maximizing the returns to the endowments.

MOTION: **Senator Davis** moved to send **RS 22806** to print. The motion was seconded by **Senator Siddoway**. The motion carried by **voice vote**.

RS 22808 A Joint Resolution Proposing to Amend Article IX, Section 8 of the Idaho Constitution Relating to the Location and Disposition of Public Lands; presented by Senator Keough.

Senator Keough explained that this constitutional amendment amends Article IX, § 8, of the Idaho Constitution to allow for disposition of state endowment lands by the Board in a commercially reasonable manner consistent with the duties of care entrusted to the trustees. A report provided by an advisory committee

at the request of the Board proposed ways to manage assets to maximize the constitutional mandate on the return to the endowments, the largest of which is the public schools. **RS 22808** proposes to increase the limitation of the sale of lands to a maximum of 6,400 acres to any one individual or entity. It not only allows for public auction, but other management tools that a prudent investor as defined in Title 68, Chapter 5, would utilize. **Senator Keough** requested the RS be printed and brought back to this Committee for a full hearing at a later date.

MOTION: **Senator Davis** moved to send **RS 22808** to print. The motion was seconded by **Senator Winder**.

Senator Werk asked for the reason for the change. **Senator Keough** said that this is the result of a series of investigative reports by advisory committees and the Endowment Fund Investment Board (EFIB) for the Board with the intent to have more modern tools to manage the lands as directed by the Constitution. There is a limitation on the size of acreage in the Constitution and where there are opportunities for exchanges or sales in larger blocks of lands; those are lost opportunities that would benefit the endowments.

Senator Stennett asked why the acreage is different between the two bills. **Senator Keough** explained that there are fewer blocks of university lands compared to the public school endowment. Senator Keough submitted a map showing the distribution of those lands (See Attachment A).

VOTE: The motion carried by **voice vote**.

RS 22825 Relating to Firearms to Protect Idaho Law Enforcement Officers from being Directed through Federal Orders to Violate Their Oath of Office or Idaho Citizens' Rights under the Idaho Constitution; presented by Senator Hagedorn.

Senator Hagedorn stated that **RS 22825** is intended to protect law enforcement officers from being directed through any federal directives of any kind, after the effective date of this bill, to confiscate or restrict firearm or ammunition use in the State of Idaho. This is not to affect law enforcement officers who assist federal agents in drug or gang activities. It is only to clarify what they legally can do. A civil penalty for the first charge has been created for those supervisors and political subdivisions that might direct unlawful activity. Any further unlawful activities are covered by misdemeanor charges.

MOTION: **Senator Fulcher** moved to send **RS 22825** to print. The motion was seconded by **Senator Hill**.

Senator Werk referred to page 2, Subsection 2, lines 13-18. If there is a federal law that is in violation of Idaho's constitutional provision, does the federal law supersede the Idaho Constitution and is that the reason for this subsection.

Senator Hagedorn responded that § 11, Article I of the Constitution deals with the right to bear and own firearms and ammunition. Any legal law or rule that may come from the federal government would be enforced by federal agents but not by Idaho law enforcement officers. **Senator Werk** asked if the concern is that the federal government will pass a law that requires the confiscation of guns. **Senator Hagedorn** answered yes. **Senator Werk** asked if there was any indication that such an order was imminent in the next decade. **Senator Hagedorn** responded no.

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

RS 22717 Relating to Public Works to Clarify Language Ensuring all Honorable Discharged Members of the Armed Forces are Included within Exception; presented by Jerry Deckard, CapitolWest Public Policy Group.

Mr. Deckard reviewed the bidding requirements for public works projects and determined that there was an omission as it relates to preference to former members of the armed forces. Air Force personnel appeared to be omitted in the existing language. This amendment clarifies the inclusion of the Air Force and all members of the Armed Forces that are honorably discharged.

MOTION: **Senator Winder** moved to print **RS 22717**. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

RS 22707 Relating to Minimum Wages to Adjust Idaho's Minimum Wage Over a Period of Time; presented by Senator Stennett.

Senator Stennett explained that **RS 22707** gradually adjusts Idaho's minimum wage from the current federal minimum wage of \$7.25 per hour to \$8.50 per hour on July 1, 2014 and to \$9.75 per hour on July 1, 2015. The current tiered wage structure for tipped and seasonal employees remains the same. The seasonal worker age will be lowered from age 20 to age 18. Wages for tipped employees will increase from \$3.35 per hour to \$3.80 per hour on July 1, 2014 and then to \$4.25 on July 1, 2015. Wages for seasonal employees will increase from \$4.25 to \$4.70 on July 1, 2014 and then to \$5.35 per hour on July 1, 2015. The time period for payment of the seasonal minimum wage is reduced along with the training period from the current 90 days to 30 days after which the employee will be compensated at a regular minimum wage level. Beginning in 2016, the minimum wage for all employees will be adjusted annually based on the U.S. Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers. This creates no new rights and doesn't increase the burden on the Department of Labor for enforcement. The current minimum wage in Idaho is about one half the amount it takes to meet the basic needs of one adult. A growing number of people must work two full time jobs at minimum wage to meet those needs. Younger people are leaving the State for higher wages and a growing number of seniors are entering the state creating a decline in Idaho's workforce. Such trends are not sustainable for the economy. As a fiscal note, the added economic activity will result in increased revenue for the State.

Senator Werk asked who, in Idaho, are the people earning minimum wage?**Senator Stennett** said that statistically, the average age is a 35 year old adult, 88 percent are not teens, 36 per cent are 40 or older, 56 percent are women many of whom are single parents, 28 percent have children, 55 percent work full time and 40 percent are the sole source of income in their households.

MOTION: **Senator Werk** moved to print **RS 22707**. The motion was seconded by **Senator Davis**.

Senator Davis provided some history on page 1, lines 26-27 that have been struck. By coupling Idaho's minimum wage with the federal minimum wage, Idahoans have received an increase of \$2.10 in minimum wages that they otherwise would not have received during a very difficult recession. It is troubling that Idaho should be decoupled from the national federal minimum wage standard. **Senator Davis** will be supporting this motion.

VOTE: The motion carried by **voice vote**.

Chairman McKenzie stated his appreciation for those attending the Committee meeting in support of this legislation. The sign up sheets showing attendance become a part of the official record.

RS 22777 Relating to Alcoholic Beverages to Provide for Sample Tasting of Distilled Spirits at a Distillery Subject to Strict Restrictions; presented by Senator Winder.

Senator Winder advised the Committee that this is a request on behalf of some of the small distilleries, eight currently in the state of Idaho. This would allow for a

small amount of product to be tasted, less than one-half tablespoon with a maximum of 3 in any 24 hour period. Other restrictions within the bill are on age, premises, and buying product back through the state dispensary so all taxes are paid. There is one minor correction to the Statement of Purpose (SOP), the reference to tasting beer will be removed since that is not allowed.

MOTION: **Senator Werk** moved to send **RS 22777** to print. The motion was seconded by **Senator Stennett**. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman McKenzie passed the gavel to acting Vice Chairman Lodge. **Vice Chairman Lodge** called **RS 22599** before the Committee.

RS 22599 Relating to Legislative Standing to Add a New Section to Provide a Process for Intervention in Lawsuits Challenging a Law or Constitutional Provision Under Certain Conditions; presented by Chairman McKenzie.

Chairman McKenzie explained that this legislation would provide a way for the Legislature to intervene in litigation to support legislation that had been passed. For example, if there is litigation challenging the constitutionality of a bill, it would allow the Legislature to file an amicus brief in support of the bill. Others have been able to file "friend of the court" briefs but the Legislature has not had the ability to file such a brief on legislation that it passed. This will provide that mechanism. It is a significant and weighty issue that should not be taken lightly and it supports this branch of government.

Senator Werk stated a concern that the executive branch will not make a decision based on merits but will decline to defend a law that they think would not do well in court. **Chairman McKenzie** responded that the major example relates to the issue of gaming. There was interest by legislators to address legislation that was passed and the executive branch did not take a substantive position, but because of questions on standing, they didn't go forward with legislation that addressed the constitutionality issue of the legislation. That is the only known instance where the Attorney General did not take action when the Legislature would have preferred to do so.

Senator Werk asked that, at the moment, your opinion is that the Legislature doesn't have standing to intervene without this additional statutory provision. **Chairman McKenzie** indicated that is the case. An individual legislator could file an amicus brief on his own behalf but there is not a mechanism for the Legislature to participate in litigation as the Legislature. **Senator Werk** referred to Section (3) (c); the agreement that allows us to intervene is done only with majority party members. There should be a role for minority party members since this is looking at a potential extensive expenditure. **Chairman McKenzie** agreed that is a valid concern. The objective was to get both houses involved, but he understands the concern.

MOTION: **Senator Davis** moved to send **RS 22599** to print. The motion was seconded by **Senator Fulcher**. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lodge passed the gavel back to Chairman McKenzie.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:35.

Senator McKenzie
Chair

Twyla Melton
Secretary