

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, March 03, 2014

TIME: 1:30 PM or upon adjournment

PLACE: Room EW40

MEMBERS: Chairman Denney, Vice Chairman Gibbs, Representative(s) Wood(35), Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood(27), Boyle, Vander Woude, Gestrin, Miller, Anderson(1), Pence, Erpelding, Rubel

**ABSENT/
EXCUSED:** Representative(s) Anderson(1)

GUESTS: Tom Schultz, Idaho Department of Lands; Diane Bagley; Brent Olmstead, Milk Producers; Jim Riley, Riley and Associates; John Runft, Exchange Association; David LeRoy; Jane Wittmeyer, Wittmeyer & Associates; Jeff Lord; David New, Growing Excellence, Inc.; Donna Jacobs; Andrew Jacobs; Robert Forrey, TAC; Sean Evans, Newspaper Association of Idaho; Jeremy Pisca, Potlatch; Raeleen Welton, IOCA; Jason Kreilenbeck, Lobby Idaho/PSLA.

Chairman Denney called the meeting to order at 2:50 p.m.

MOTION: **Rep. Wood(35)** made a motion to approve the minutes of February 17, 2014. **Motion carried by voice vote.**

MOTION: **Rep. Pence** made a motion to approve the minutes of February 19, 2014. **Motion carried by voice vote.**

H 536: **Rep. Vander Woude** presented **H 536** regarding state land exchanges which requires and reviews appraisals for Endowment Lands. He further stated Idaho licensed or certified appraisers use uniform appraisal practices. He said a report should be provided to the House and Senate on Endowment Land exchanges during the year to ensure Idaho is receiving value for our Endowment Lands or exchanges of land.

Tom Schultz, Director for the Idaho Department of Land, states the Idaho Department of Land reviews appraisals on all Endowment Lands exchanged although land appraisals are opinions. He stated it costs \$5,000 per appraisal for a land transaction.

MOTION: **Rep. Wood(35)** made a motion to send **H 536** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Vander Woude** will sponsor the bill on the floor.

H 537: **Rep. Vander Woude** and **Rep. Burgoyne** worked together regarding public record requests concerning Endowment Land. **Rep. Burgoyne** stated this legislation provides that appraisals of Endowment Lands and the timber and mineral rights appurtenant to them are matters of public record. Currently, real property transactions do not have to be disclosed until the transaction is completed. He indicated county commissioners are entitled to object prior to a completed Endowment Land transaction although the transaction is not disclosed until the transaction is completed. He said this legislation will allow the land exchanges of Endowment Lands to be open through a public records request prior to closing of the transaction. He suggested an interim committee to address concerns and opposition to this legislation of possible disclosures of proprietary information.

Tom Shultz, Director of Idaho Department of Lands, this legislation will only apply to Endowment Land appraisals prior to the acquisition or sale of the Endowment Land. He expressed concern that an entity may remain the property owner if the transaction isn't finalized although the proprietary information of the entity may be disclosed through public record requests. He would like some discussion for amended language in the legislation to protect proprietary information.

Jim Riley, President of Riley & Associates from Coeur d'Alene, Idaho, represents his clients who own a total of 400,000 acres of forest land in Idaho. He expressed his concern regarding this legislation and the possible compromise of private interest or proprietary information. He believes disclosing information prior to the completed transaction may invite interference. Timber on lands, like a factory, provides specific timber details. He recommends providing summary information on the transaction and not expose proprietary information in the response to the public records request. Mr. Riley has worked with the sponsors of this bill, but believes the legislation needs additional work and the details cannot be resolved in this committee meeting. He believes some of the complexities will take time to resolve for an interim committee.

Sean Evans, Newspaper Association of Idaho, **supports** this legislation.

John Runft, Runft & Steele Law Offices, representing the Association for Assembled Multiparty Land Exchanges, stated Idaho legislators have constitutional jurisdiction to enact laws and the Land Board is not a court of equity; it is an executive board charged with duties that must be executed in conformity with the law. Mr. Runft expressed concern that if land exchanges become impractical or unusable, there may be a preference for negotiated sales of trust lands. He further stated negotiated sales may lead to favoritism, and forms of corruption. He feels it is essential that the land exchange process be maintained as an alternative to auction sales for the disposition of trust lands. He suggested to provide confidentiality status in the disclosure of land exchanges to county commissioners and other public officials only prior to the close of the transaction.

Jeremy Pisca, Risch & Pisca, representing Potlatch Corporation and the Newspaper Association of Idaho, supports legislation that facilitates land exchanges. He believes **H 537** discourages land exchanges.

MOTION: **Rep. Gestrin** made a motion to **HOLD H 537** in committee at the call of chair. **Motion carried by voice vote.**

H 538: **Rep. Vander Woude** stated the Land Board should use accounting methods of cash and accrual. He stated the Idaho Department of Lands has assets of \$1.3 billion in endowment, and \$2.4 billion in land while the return is \$52 million which is 5.2% of total return. He agrees there are costs involved in getting an upgraded software accounting system, but the cost is minimal compared to the return on assets for the sale and exchange of public lands. He stated the investment would benefit the taxpayer and our schools.

Tom Shultz, Director of Idaho Department of Lands, stated the cost is estimated to be about \$1 million to obtain a new software system for accrual accounting that uses depreciation. He indicated he has not pursued any requests for proposals for a software system. Mr. Shultz stated to hire a person would be approximately \$80,000 per year. Mr. Shultz identified that no appropriation has been made for the purchase of software or to hire a person for this legislation.

Rep. Gestrin suggested using Generally Accepted Accounting Principles (GAAP).

MOTION: **Rep. Barrett** made a motion to send **H 538** to floor with a **DO PASS** recommendation.

SUBSTITUTE MOTION:

Rep. Gibbs made a Substitute Motion to **HOLD H 538** in committee. **Substitute Motion carried by voice vote.**

S 1277:

Rep. Burgoyne stated this legislation allows state land to be exchanged by a constitutional mandate to maximize long term financial returns to the Endowments. He stated this legislation seeks to clarify that cottage site lands be exchanged for land of equal value. He further explained that Endowment Land in a trade can be exchanged for equal value, public or private, and for other permitted uses. He said the exchange of land does not require public auction. Rep. Burgoyne introduced **David Leroy** to provide his legal opinion and further explain the details as to the constitutionality of this legislation.

David Leroy, Leroy Law Office, provided his legal opinion on **S 1277** providing clarification on possible constitutional issues. He explained the Idaho Legislature does have the authority to allow the exchange of state lands for both dissimilar property and for non-consolidated properties, to permit an exchange of state endowment holdings for public or private land of greater value, limit exchanges to land with the primary value in buildings occupied by a public purpose entity, to prescribe a definition of exchange to include multiple party conveyances even if a subsequent sale is planned by the recipient, and that land exchanges are authorized under a different and independent section in the constitution of a public land sale at auction.

Rep. Keough is the sponsor of **S 1277** and stated the Land Board is reluctant to enter into land exchanges. She stated there have been problems with some appraisals and other difficulties. She indicated Preist Lake has moved forward on auctioning, but felt it would be better as a land exchange by the Idaho Department of Lands.

John Runft, attorney for the Association for Assembled, Multiparty Land Exchanges, addressed constitutional issues regarding this legislation. He stated and reaffirmed the Idaho Legislature has constitutional jurisdiction to set procedures and parameters for the Land Board. Mr. Runft believes allowing negotiated sales may create incentives for favoritism, in-dealing or corruption. He recommends this bill should not be passed in its current form and portions of the bill's language should be slightly modified.

Robert Forrey, TAC, stated a news release from the Idaho Department of Lands had suspended commercial property acquisitions. He requested a definition be provided for the term "public purpose" in this legislation.

Jeremy Pisca, Risch & Pisca, represents Potlatch Corporation and **supports S 1277.**

Jeff Lord, rancher in southern Idaho, has several state land leases and **supports S 1277.**

MOTION:

Rep. Vande Woude made a motion to send **S 1277** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Vander Woude** will sponsor the bill on the floor.

ADJOURN:

There being no further business to come before the committee, the meeting adjourned at 5:17 p.m.

Representative Denney
Chair

Jennifer Smith
Secretary