

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 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 8:03 a.m. with a quorum present and called for a motion on the gubernatorial appointment before the Committee.

VOTE ON GUBERNATORIAL APPOINTMENT: Vote on the Gubernatorial Appointment of Daniel Kunz to the Idaho Energy Resources Authority.

Senator Siddoway moved to send the gubernatorial appointment of **Daniel Kunz** to the Idaho Energy Resources Authority to the floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENTS: Gubernatorial Appointment of Jackie R. Flowers to the Idaho Energy Resources Authority (IERA).

Ms. Flowers, General Manager, Idaho Falls Power, noted that she had appeared before the Committee earlier this year with the Idaho Strategic Energy Alliance. She is honored to have received an invitation to join the high caliber group of professionals that have diverse backgrounds and expertise. **Ms. Flowers** stated that her perspective will add that of a utility manager and, in particular, a public power manager in Idaho. She understands the importance of the Idaho Energy Resources Act (Act), specifically the financing mechanism that has been established to help secure generation and transmission needs in Idaho.

Chairman McKenzie asked if Ms. Flowers had worked with the IERA on projects and, if so, on what kind of projects. **Ms. Flowers** responded that they have worked with the IERA on financing related to the Horse Butte Wind project. Idaho Falls Power is a participant in that project.

Senator Davis asked if Ms. Flowers had noticed statutory gaps where the Idaho Legislature should assist the IERA. **Ms. Flowers** stated that she hasn't identified specific gaps. Conversations have been started with the Bonneville Power Administration related to transmission needs. **Senator Davis** asked if there are areas in the Idaho Energy Plan (Plan) where implementation could be more progressive. **Ms. Flowers** responded that the plan is brought before the Legislature every two years to be updated. **Senator Davis** recounted Ms. Flowers qualifications and training and asked, from her perspective, does our country need, over the next 20 years, a significant, dynamic change in the way power is generated and distributed. Is Idaho pursuing the most likely path to affordable production and distribution? **Ms. Flowers** replied that the regulatory

climate is driving tremendous changes within the industry, particularly in how power is generated.

There will be a significant impact to supply sources and transmission constraints. Idaho is an importer of energy and must rely on other states to continue to promote development of generation resources. However, Idaho has an amazing hydropower resource portfolio. Idaho needs to contemplate on how to continue the development of resources within the State to alleviate transmission constraints to control economic development and energy security.

Senator Werk inquired about the need for change in Idaho's energy portfolio because of increased costs and the fluctuation in prices. **Ms. Flowers** answered that a diverse portfolio is the key to minimizing risk and exposure in any one area. All generation resources have their pros and cons. It would behoove Idaho to explore a variety of generation resources to reduce the risk of one particular exposure.

Senator Siddoway asked for solutions for Idaho Falls Power and the transmission problems that have occurred over the last five years. **Ms. Flowers** replied that she is very familiar with the transmission needs in Idaho and the attempts to expand the transmission infrastructure. The Idaho Falls Power approach has been to avoid any kind of condemnation. About half of the route has been acquired in terms of right-of-way acquisition. One of the first agreements was with the Bureau of Reclamation. **Senator Siddoway** asked for a timeline to have the transmission system in place. **Ms. Flowers** said that they are about half way through the ten year time frame.

Gubernatorial Reappointment of Dennis P. Duehren to the Bingo-Raffle Advisory Board (Board). NOTE: Phone Interview

Chairman McKenzie welcomed Mr. Duehren and asked for his perspective on serving on the Board, especially from the position of having run a Bingo for the Rotary in Montpelier.

Mr. Duehren explained that they have a small bingo club that accommodates about 20 players once a week. When he assumed that responsibility, he had no training, nor had he read the code. When he began serving on the Board and meeting other people, he realized there were state laws and rules that applied and that he should know them. There are various operations among those serving on the Board and their experiences are shared.

Gubernatorial Reappointment of Wendy W. C. Diessner to the Bingo-Raffle Advisory Board. (Phone Interview)

Chairman McKenzie asked for a brief perspective from having served on the Board as well as running Bingo at the YWCA in Lewiston.

Ms. Diessner has been running Bingo at the YWCA for almost 20 years. She became involved with the Board very early because she felt it was important that non profits adhered to certain standards and regulations when running games. It is important for Board members to monitor and encourage startup games. Non profits have been damaged by starting up games without having the right information or the right abilities to back the game and carry it through.

Senator Siddoway asked how much time is spent working on the Board. Is the Board's role to inform people about setting up and running Bingo games or is it more enforcement? **Ms. Diessner** said time spent depends on what the Board is doing. Normally, they meet by phone, one hour per quarter. They generally have some investigations that may take five or six hours a quarter. There is no enforcement, that is the Lottery Commission. Advising startups takes more time.

Senator Siddoway asked if there are known "rascals" that try to take advantage of the opportunities available in the game of Bingo. **Ms. Diessner** said most problems arise from ignorance. In their area, the games are very small.

H 515

Relating to Beer to Set Requirements for Beer Tasting and such Requirements will Align Beer Tasting Events with the Current Idaho Statute Authorizing Wine Tasting Events; presented by Representative Eskridge.

Representative Eskridge explained that **H 515** allows for a brewery, wholesaler or distributor or retail beer licensee to conduct a beer sample tasting event on premises not licensed for the sale of beer by the individual glass or open bottle and is the same as the legislation passed for wine for similar purposes under Idaho Code § 23-1325 (c). **Representative Eskridge** read through the bill outlining the criteria needed to hold a beer tasting event. Small producers connecting directly with the consumers is very important to the success of these small businesses in competing with the larger, national producers. These small breweries are becoming a significant industry providing increased employment and enhancing the state economy. Beer tasting will assist in growing this industry.

Chairman McKenzie called Shiela Francis to testify, and then Jeremy Pisca.

Ms. Francis, President, Idaho Brewers United, is representing all craft brewers in the State of Idaho. They are in support of **H 515**. It is important to get products to people for sampling before they commit to buying.

Mr. Pisca, Attorney with Risch Pisca Law Firm and Executive Director for the Idaho Beer & Wine Association, supports this legislation. **H 515** is patterned after the wine tasting statute that has been in place since 2004. There have been no incidents or problems with that statute. There has been a large diversification in products in beer markets; each with their unique characteristics. Trying out the different brands helps the consumer to make a selection.

MOTION:

Senator Werk moved to send **H 515** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 514

Relating to Concealed Weapons Licenses to Require a License in Order for an Elected Official to Carry a Concealed Weapon; presented by Senator Hagedorn.

Senator Hagedorn said that **H 514** removes the special treatment that elected officials have to automatically carry a concealed weapon. It also clarifies how to carry a weapon in a vehicle. This has been an ongoing concern for hunters. The language on page 4, lines 35-40 states when and how weapons may be carried in a vehicle. Subsection (12) (a) identifies who law officials are in a city, county or state and that they are exempt. Also, any person outside the limits of a city is exempt from having a concealed weapons permit. This bill is supported by the Sheriffs Association, a number of pro Second Amendment groups and the National Rifle Association.

Senator Davis asked who the "concealed weapons license" applies to as it appears on page 4, line 37. **Senator Hagedorn** believes that the term license and permit is used interchangeably. The Attorney General (AG) would have to determine the reciprocity question. **Senator Davis** gave an example of the way he interprets Senator Hagedorn's understanding of Subsection (9). If Senator Davis has a concealed license or permit from another state, he is driving from that state into Idaho, he has less than an enhanced permit, and he has a firearm and it is not in plain view, but it is in his car, does Subsection (9) apply? That is, would he get the benefit of the exception to this criminal act. **Senator Hagedorn** answered "yes." **Senator Davis** went to page 5, Subsection (12) that states who can carry without the necessity of having a concealed weapons license or permit. Subsection (12) (e) is the primary target of the legislation. Subsection (12) (a), includes Law enforcement officials of the United States. **Senator Davis** interprets

that to mean federal officials. So a sheriff of a county in Wyoming would not necessarily get the benefit of Subsection (12) (a) when it says "United States"; is that correct? **Senator Hagedorn** agrees. **Senator Davis** said that "peace officers" is intended to apply more broadly than just a federal police officer; is that right? **Senator Hagedorn** agreed. **Senator Davis** referred to line 5, page 5. The conjunctive "or" any officer of an express company on duty. What does that mean? **Senator Hagedorn** responded that an express company would be like Brinks or an armored company; a company that delivers high valued materials. He didn't know if it was a defined term.

Senator Davis referred to Subsection (12) (d), lines 12-14 which strikes a phrase that has been very controversial in the past. Striking that phrase in this bill has not raised any comments. Why? **Senator Hagedorn** said that striking this language, along with the changes that have been made on page 4 defining how one can carry a weapon in a vehicle is what reduced the contention. How to properly carry firearms in a vehicle when going out into the field has always been a problem and this bill fixes that.

Senator Fulcher asked how long exempting elected officials has been in statute. Have there been any problems that have arisen over the current language for elected officials; any crimes, any accidental discharge, or anything of that nature. **Senator Hagedorn** said that there have been incidences where elected officials have found themselves in situations of carrying a concealed weapon where they shouldn't, such as an airport. The training to obtain a concealed weapons permit would have clearly let those folks know when and how they could carry. **Senator Hagedorn** said that elected officials should follow the same rules as the citizens that legislators are writing the statutes for.

Senator Winder asked for a definition of unloaded and if it was in the bill. **Senator Hagedorn** answered that unloaded means ammunition not in the chamber of a weapon; it can be in a magazine but not in the chamber. It is defined in Title 18, but he can't say where.

Senator Siddoway requested the timeline to get a concealed weapons permit. **Senator Hagedorn** responded that a standard concealed weapons permit typically takes about three to four hours of class time, time at the local sheriff's office to fill out security documents and be fingerprinted. The background check takes about six weeks from the time application is made after training. A member of the military can use the DE214 card. The enhanced permit takes an eight hour class with live fire, and there are no substitutions for that training. **Senator Siddoway** stated his concern with requiring a concealed weapons permit for an elected official. He gave an example of what may happen in case of a contentious incident. A gun in his pocket would provide a sense of security. He appreciates what is being done in other parts of the bill, but this part makes no sense. **Senator Hagedorn** answered that he understands the concern and understands there are times when an elected official feels threatened. Getting a concealed weapons permit isn't that onerous. Some sheriffs give special considerations for elected officials. Education on how and where to carry is critical; the ramifications of not knowing are great. **Senator Siddoway** conceded that he has a problem with having any license to carry a gun. How do we rationalize that? **Senator Hagedorn** said that they grew up in a time when guns were always around and they were taught how to use them safely. Times have changed. There are a couple of generations that have not grown up like that. The only thing good about a license is the education requirement.

Senator Winder asked if we know how many enhanced carry permits have been issued since the law went into effect last July. **Senator Hagedorn** believes there are about 1,130 - 1,140.

Senator Fulcher agrees with some of the concerns Senator Siddoway has. The exclusion for elected officials has been in place since 1906. **Senator Fulcher** didn't see a problem to solve. We are visible. We sit in a building that is mostly unsecured. We make public decisions in a public way like never before. He has walked out of this Committee room and been threatened and has had his life threatened multiple times. This is how we lose our privileges and liberties, we give them back. Some of the things in the bill are good; some need clarification. Would you consider an amendment process to keep some of the components that we may agree on, but maintain some of the privileges for elected officials that we currently enjoy. **Senator Hagedorn** answered that it is a privilege, but we should not have any privileges in this matter above and beyond what the citizens of the State have. Would he like to have no license requirements; yes. Because of the level of education that exists within the population, he cannot support that. It would be dangerous. He has been in similar threatening situations and he took the time to get a concealed weapons permit before he got into the Legislature. **Senator Fulcher** said he is sensitive to the political correctness of having privileges that others do not have, but there has never been a threat in his life such as there has been in the last nine plus years sitting in this body.

Senator Davis referred to page 4, line 35-36. A firearm may be carried concealed in a motor vehicle by a person and striking the word legally. The courts are going to say the Legislature intends it to be a different public policy. Does carry concealed mean that the firearm actually has to be on a person? **Senator Hagedorn** said he doesn't believe that it does. However, it does change the intention. The intention is that having a weapon in a motor vehicle in general where anyone can drive that vehicle was not the intention when this was written. But now, if someone drives a vehicle not knowing a firearm is in the vehicle, the person who put the firearm in the vehicle is accountable for that firearm.

Senator Davis pointed to the next sentence that says he can put a concealed weapon in the car if it is unloaded or disassembled without a problem if he doesn't have a concealed weapons permit. If he has a permit and he puts a loaded firearm under a seat in his car, loans that car to another who does not have a license and who is unaware that the firearm is there; is there a problem? **Senator Hagedorn** said that you don't have a problem, the driver of that vehicle has the problem because you didn't manage your weapon responsibly. **Senator Davis** asked if he has a concealed weapons permit and puts a loaded gun in his luggage in the trunk of his vehicle, is he carrying concealed. **Senator Hagedorn** suggested that the courts will define carried. Should an officer go through the luggage and find a loaded weapon, there would have to be a discussion at that point. He is not versed well enough to make that kind of decision.

Senator Hill asked what practical changes are being made. **Senator Hagedorn** stated that the practical changes are to define very clearly for people who don't have a concealed weapons permit, how they can carry a firearm in their car outside the city limits and when going back and forth to the field because currently, that is not well defined. **Senator Hill** restated that the intent is not to make changes, the purpose of this section is to clarify how and when to carry.

Senator Lodge referred to page 5, line 3. What does "Law enforcement officials of the United States" mean? **Senator Hagedorn** answered that, in his opinion, it would mean FBI, judges, security people, DEA, etc. **Senator Lodge** asked if we are giving them a benefit that Idaho elected officials will not have. She stated that she has had training from the U.S. Marshals, they don't have a class for the general public which is required in Subsection (13) (c). Would that training be acceptable? **Senator Hagedorn** responded that she would have to discuss that with the Canyon County Sheriff. **Senator Lodge** stated that she is concerned

with the language in this bill although it is politically correct. She also agrees that they have Second Amendment rights to carry firearms and should be able to do that if they are a law abiding citizen. **Senator Hagedorn** said he understands her concerns, that is why he has a concealed weapons permit. This has nothing to do with political correctness, it has everything to do with preparation. We are our own first responders and we should be prepared.

Senator Stennett is disturbed by the definition of "confines of any city" because of the definition of city and all of the different sizes and legalities of a "city." Can you define city? **Senator Hagedorn** said he could not. **Senator Stennett** asked for the definition of "in plain view." **Senator Hagedorn** answered that "plain view" means plain view; nothing covering it. The intention is, if a law enforcement officer walks up to a vehicle, the firearm can be seen in plain view.

Senator Fulcher asked if "any person" on line 20 could include a convicted felon. **Senator Hagedorn** said that is existing language so that determination has been made by the courts. **Senator Davis** said that there are specific exceptions that restrict the rights of a convicted felon. **Chairman McKenzie** added that this section does not expand what is lawfully allowed and there are specific provisions in code that relate to felons.

MOTION: **Senator Davis** moved to send **H 514** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

SUBSTITUTE MOTION: **Senator Siddoway** made a substitute motion to hold **H 514** in Committee. **Senator Lodge** seconded the motion.

Senator Lodge stated that she had several concerns that could be corrected.

Senator Siddoway stated his concern that we are giving up our liberties and supports the substitute motion.

Senator Davis compared the 1899 Constitutional Convention language of Article I, Section XI to the current 1978 language. He explained the changes that occurred in 1978 and the specific provisions dealing with concealed weapons and regulating the issuance of concealed weapons permits. The process belongs to the Legislature. He will vote against the substitute motion because the language on page 4 helps solve real, practical problems that exist. **Senator Davis** also explained his views on other sections of the bill. He stated that he has not had the gun training others have had, and he would benefit by being asked to get appropriate training instead of an additional right because of holding an elected office.

Senator Fulcher noted that there are parts of the bill that are okay. He understands the argument of an elected official being under the same laws as other citizens. There is a defensible difference in this case. The majority of the citizenry does not put themselves in the same set of circumstances as an elected official. His vote will not be to give up the privilege that predecessors have granted.

Senator Davis gave a scenario that asked why a citizen at risk who is required to have a permit was any less important than an elected official who was not. **Senator Fulcher** responded with a similar scenario to substantiate his position.

Senator Siddoway returned to his original statement that there shouldn't be a requirement for a license at all.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman McKenzie** called for a **roll call vote** on the substitute motion to hold **H 514** in Committee. **Senators McKenzie, Fulcher, Lodge, Siddoway, Stennett** and **Werk** voted **aye**. **Senators Davis** and **Hill** voted **nay**. Senator Winder was excused. The motion carried.

H 478

Relating to the Idaho State Lottery to Continue Providing State Lottery Proceeds set Forth in the Bond Levy Equalization Program by Removing the Sunset; presented by Jason Hancock, Deputy Chief of Staff, Board and Department of Education.

Mr. Hancock said that this legislation is taking the sunset off the provisions on how we fund bond level equalization. One-quarter of the state lottery revenues go toward school districts to assist in repaying their bonded indebtedness.

Senator Werk questioned the striking of § 67-7434 (1) and wanted clarification.

Mr. Hancock responded that there has been language in effect since July 1, 2009, that created a different split of those revenues. It gives three-eighths to the Permanent Building Fund, three-eighths to public school buildings and one-quarter to bond levy equalization.

MOTION:

Senator Lodge moved to send **H 478** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 23057

A Senate Concurrent Resolution Stating Legislative Findings and Approving Administrative Rules that Impose a Fee or Charge; presented by Dennis Stevenson, Administrative Rules Coordinator.

RS 23058

A Senate Concurrent Resolution Stating Legislative Findings and Approving and Extending Temporary Rules Reviewed by the Legislature; presented by Dennis Stevenson, Administrative Rules Coordinator.

MOTION:

Senator Fulcher moved to send **RS 23057** and **RS 23058** to print. **Senator Davis** seconded the motion.

Senator Davis asked Mr. Stevenson to explain a change found on lines 22-23 of **RS 23057**. **Mr. Stevenson** explained that change has to do with the effective dates of the pending fee rules. Anytime a pending rule requests a date other than the adoption date of the resolution, it must be specified in the resolution, otherwise the effective date of the pending rule would default back to the adoption date.

Senator Werk expressed his appreciation for the work Mr. Stevenson does, it is a great service.

VOTE:

The motion carried by **voice vote**

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:53 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary