

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 30, 2015

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Hill, Winder, Lakey, Johnson(Lodge), Stennett and Werk

ABSENT/ EXCUSED: Senators Davis and Siddoway

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 8:04 a.m. He introduced John Chatburn, the Gubernatorial Appointee for Administrator of the Office of Energy Resources (OER). He requested that Mr. Chatburn provide the Committee with a summary of current activities within the OER.

GUBERNATORIAL APPOINTMENT: **Mr. Chatburn** stated that the OER is focusing on two areas: transmission line projects and federal regulations. On the transmission side, the Bureau of Land Management (BLM) sent out an Environmental Impact Statement (EIS) for the Boardman to Hemingway Transmission Line and the OER is coordinating the State's comments on that EIS. The comment period ends on March 19th.

The Gateway West transmission line project received a Record of Decision for ten segments from Glen Rock, Wyoming to the Hemingway substation near Marsing, Idaho. Segments one through seven and segment ten were approved. Action was deferred on segments eight and nine from Midpoint and the proposed Cedar Hills substation west to the Hemingway substation. The BLM requested that a subcommittee look at the issues surrounding siting those two segments including impacts to sage grouse habitat, municipalities, and the Morley Nelson Snake River Birds of Prey National Conservation Area. That process was completed and, today, the BLM will be issuing an administrative draft supplemental EIS for comment by the cooperating agencies.

The OER has coordinated the State's comments on the regulatory aspect of the Environmental Protection Agency (EPA) regulation of carbon emissions from existing power plants under the Clean Air Act § 111 (d). OER continues to participate in regional discussions to facilitate compliance as final regulations come out from the EPA.

Chairman McKenzie asked if the EPA is regulating the sage grouse like a listed species even though they are not, thus, making it difficult to site across federal lands. **Mr. Chatburn** answered that the BLM is treating the sage grouse as a candidate species which is very similar to being listed.

Senator Lakey inquired if the most recent draft plan is about efforts to get transmission lines across public lands. **Mr. Chatburn** responded that they have not seen the actual administrative draft EIS. The BLM Resource Advisory Council

recommended that the routes in segments eight and nine would be primarily located on public land; some would be on state land and private property. The philosophy of the Governor's office and OER is to facilitate solutions where the least number of people and resources are impacted to the least extent.

Senator Johnson(Lodge) asked if acquiring privately owned land is an eminent domain issue or will there be reimbursement. **Mr. Chatburn** responded that the utility and the private property owner negotiate an agreement. If agreement cannot be reached, there is always the potential for an eminent domain action.

Chairman McKenzie asked if any action was initiated after a national corridor of interest was designated in an effort to ease transmission line regulation across federal lands. He asked if any statutes resulted from the backstop for eminent domain authority sought by the Federal Energy Regulatory Commission (FERC).

Mr. Chatburn recalled that there were two types of corridors specified. The Department of Energy (DOE) took action to comply with Section 368 of the Energy Policy Act of 2005 to address siting in the 11 contiguous western states. The DOE designated the 368 corridors without consulting anyone; a lawsuit was filed and the DOE is now reevaluating those corridors. The other designation was a national interest corridor that was mainly in the middle to eastern part of the country and did not affect the west.

Chairman McKenzie inquired if the federal government would have some kind of tax or cap and trade program related to carbon emissions for existing power plants. **Mr. Chatburn** responded that the draft guideline from the EPA requires states to develop a plan reducing carbon emissions by an amount that is different for each state. The plan will be released in late summer.

Chairman McKenzie announced that the Committee will vote on Mr. Chatburn's appointment at the next scheduled meeting. He welcomed Ron Williams to present **RS 23354**, related to the Idaho Energy Resources Authority.

RS 23354

Ron Williams, representing Idaho Energy Resources Authority (IERA), explained that the amendment directly relates to financing the IERA is doing for the Bonneville Power Administration (BPA).

In 2013 the IERA signed a Memorandum of Understanding with BPA to do two financings. In 2014 the first financing was completed. During this process, BPA expressed a concern that some of the financing IERA did for them could be jeopardized by financing done for other entities. Although the BPA was assured that the IERA could not go through bankruptcy, the BPA was not convinced since there was nothing to that effect stated in statute.

To alleviate BPA's concerns, **RS 23354** is being brought before the Committee. It amends the powers of the IERA to confirm that the IERA is not a taxing district and cannot file for bankruptcy; it clarifies that the IERA may pledge and assign its interest in a facility to a participating utility for whom it is providing financing; and, a new section provides additional power to the IERA to finance conservation measures for a participating utility that is a federal agency, such as the BPA.

Senator Werk asked if the new section for conservation is only for the BPA.

Mr. Williams said that Subsection (1) (d) under Conservation Measures refers to a participating utility. That means only a federal agency that is a participating utility qualifies. **Senator Werk** inquired if this could be expanded for financing co-ops. **Mr. Williams** said that this provision is for co-ops and communities that buy their power from the BPA.

Senator Hill stated that Subsection (3) on page 4 of the RS is very broad and asked if it could potentially expose board members and officers to personal liability in case the IERA defaulted on its obligations. **Mr. Williams** responded that he hadn't considered that question but will investigate. There are other extensive provisions in statute that says board members are completely indemnified from any of their actions as long as they act in good faith.

MOTION: **Senator Winder** moved to send **RS 23354** to print. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:34 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary