

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Monday, February 23, 2015

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Hagedorn, Senators Davis, Tippetts, Johnson, Bayer, Souza and Burgoyne

**ABSENT/ EXCUSED:** All present, with a vacancy in District 17.

**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:** **Vice Chairman Hagedorn** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

**Vice Chairman Hagedorn** welcomed back Chairman Lodge.

**GUBERNATORIAL APPOINTMENT:** **Senator Burgoyne** moved to send the gubernatorial appointment of William Wellman to the State Public Defense Commission to the floor with a recommendation that he be confirmed by the Senate. **Senator Tippetts** seconded the motion. The motion carried by **voice vote**.

**H 55** **Paul Jagosh**, Idaho State Fraternal Order of Police, explained **H 55** is to lift the sunset clause from the temporary disability bill passed three years ago. There was a gap determined between workman's compensation insurance and the rate of salary for officers injured in the line of duty. Not wanting taxpayers to cover the cost, it was decided to charge a \$3.00 fine on misdemeanor and felony convictions the sum to go into the disability fund.

**Vice Chairman Hagedorn** asked for the annual expenditures of the fund. **Mr. Jagosh** answered \$318,000 has been paid out since 2007 with total expenditures in 2013 at \$53,000, in 2012 at \$18,000, and in 2011 at \$107,000. Administrative costs for 2014 were \$5,600, and in 2013 they were \$2,100. He related it is hard to know from year to year what will be needed. **Vice Chairman Hagedorn** questioned what was done for long-term disability for officers. **Mr. Jagosh** clarified for those who cannot come back to the police force but can still be employed elsewhere, there is no fund. If they are totally and permanently disabled they would be on permanent disability.

**Chairman Lodge** asked if these numbers included officers from the jails and prisons. **Mr. Jagosh** replied yes.

**Senator Tippetts** inquired how determination of temporary or permanent disability is made. **Mr. Jagosh** answered it is determined by a doctor on a case-by-case basis.

**MOTION:** **Senator Johnson** moved to send **H 55** to the floor with a **do pass**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**S 1041** **Shane Evans**, Idaho Sexual Offender Management Board (SOMB), stated that **S 1041** adds a sexual offender polygraph examiner to the SOMB.

**Senator Burgoyne** asked for information on why having a polygraph examiner on the SOMB would bring expertise to making better decisions. **Mr. Evans** responded SOMB is lacking a person who has specific expertise in polygraph, understands certification and licensing of local and national boards and has experience. This person would provide SOMB recommendations for contract providers.

**Senator Davis** questioned the length of terms for the SOMB members. **Mr. Evans** referred to line 18 of the bill stating a term of three years. **Senator Davis** asked which members' terms expired in 2014. Mr. Evans answered it is not explicit. Mr. Evans yielded to Kathy Baird

**Kathy Baird**, SOMB Management Assistant, responded the Governor's office set the expiration dates. Three years was the typical time added as to establish continuity. **Senator Davis** suggested that it may need to go to the Amending Order and identify how it is done.

**Vice Chairman Hagedorn** responded that there are six members whose terms have expired, so an emphasis is on those left and their expiration. **Ms. Baird** stated the Governor's office identifies which positions expire and at what time.

**Senator Tippetts** questioned the language regarding the vacancy and the appointment to fill the vacancy. **Ms. Baird** explained the term would expire January 31 of the year of expiration. She reiterated that the Governor's office sets the time.

**Senator Johnson** asked if the expert is to have a degree in the field. **Mr. Evans** answered there are very specific certification requirements for this position. The expert will have national certification along with meeting the certification standards set by SOMB.

**Senator Davis** wondered if there were a lot of people who could meet these requirements. **Mr. Evans** answered there is a handful of people within the state who would qualify.

**DISCUSSION:**

A discussion ensued on the expiration and length of the time of a term and why rotations occur as they do.

**Senator Davis** questioned the primary purpose of the appointee. **Ms. Baird** answered it was for the expertise of a polygrapher.

**Vice Chairman Hagedorn** spoke on the funding in the fiscal note and if the SOMB had the position in their budget or if a trailer bill would be needed to create the funds. **Mr. Evans** explained the funds were not in the budget.

**Senator Burgoyne** suggested the bill needed some amendments. He recommended striking Subsection 2, and in Subsection 4 under each position through J, inserting "whose term shall expire on whatever date, and every three years thereafter." This would set a definite date regardless of the date of appointment. **Mr. Evans** replied they would meet the terms for the Amending Order.

**MOTION:**

**Senator Burgoyne** moved that **S 1041** be referred to the 14th Order for amendment. **Senator Davis** seconded the motion.

**Senator Davis** asked that there be set terms on vacancy. **Mr. Evan** said they would do a rewrite.

**MOTION:**

The motion carried by **voice vote**.

**S 1053**

**Robert Aldridge**, attorney, stated **S 1053** is to set forth and clarify the duties of Guardian Ad Litem. It will prevent some crossover between guardianship, conservatorship and Guardian Ad Litem that should not be done.

**Senator Tippetts** questioned the language and expression of the bill. **Mr. Aldridge** replied the Guardian Ad Litem has been in code but the language is implied, not expressed, causing the attorneys to feel they have all the rights and powers. **S 1053** sets forth the rights, powers and duties.

**DISCUSSION:**

A discussion ensued about the overall lack of clarity and having language accompany the bill to clear up the issues of guardianship and conservatorship versus Guardian Ad Litem. Some members of the Committee felt there was no structure that leads the reader to understand what the duties, rights and powers are. There were questions as to whether it was compounding the problem in the Probate Code.

**Senator Davis** moved that **S 1053** be referred to the 14th Order for amendment. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

**S 1056**

**Robert Aldridge**, attorney, explained **S 1056** is enabling state law so personal property passes to survivorship in community property. Financial institutions have a check off box on forms to create community property with right of survivorship but that requires a State law specifically allowing for such ownership. This bill does that.

**Bill Vasconcellos**, UBS Financial Services, spoke about accounts with joint survivorship and how the survivors have to pay more capitol gains. This bill will reduce the capital gains taxes and enable accounts to pass outside probate.

**MOTION:**

**Senator Davis** moved to send **S 1056** to the floor with a **do pass** recommendation. **Chairman Lodge** seconded the motion. The motion carried by **voice vote**

**ADJOURNED:**

There being no further business at this time, **Vice Chairman Hagedorn** stated the Minutes on the agenda for approval will be moved to Wednesday, February 25, 2015, and adjourned the meeting at 2:58 p.m.

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Senator Lodge  
Chairman

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Carol Cornwall  
Secretary

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Senator Hagedorn  
Vice Chairman

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Barbara Lewis  
Assistant Secretary