

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, March 06, 2015

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Cameron, Siddoway, Brackett, Heider, Nuxoll and Stennett

ABSENT/ EXCUSED: All present, with a vacancy

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 Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES: **Senator Heider** moved to approve the Minutes of February 20, 2015. **Senator Cameron** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Senator Siddoway** moved to approve the Minutes of February 23, 2015. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Senator Brackett** moved to send the gubernatorial appointment of Jim Yost to the Northwest Power and Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Senator Cameron** seconded the motion. The motion carried by **voice vote**. Senator Cameron will be the floor sponsor.

Chairman Bair welcomed Representative Raybould, House Resources and Conservation Committee Chairman, to the meeting. Chairman Raybould presented **HCR 10**.

HCR 10 **Chairman Raybould** said this rule was rejected in Committee because it eliminated the current boundary lines of the Eastern Snake Plain Aquifer (ESPA). Not enough technical data is available at this time for the Idaho Department of Water Resources (IDWR) to accurately evaluate the underground water sources available in the additional territory added to the ESPA, and to define the effects on the various sections of the aquifer.

MOTION: **Senator Siddoway** moved that **HCR 10** be sent to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

H 161 **Senator Lakey** presented **H 161** and said this bill is one of a group of bills to reclassify low level misdemeanors to infractions. The subject matter is fish and game violations. The purpose behind the reclassification is to better align punishment with crimes committed and save costs related to public defense, while maintaining penalties adequate for deterrence and enforcement. This effort builds on H 434 (2014) which updated infraction penalties to increase the viability of migrating low level misdemeanors to infraction penalties.

These changes originated with recommendations from the Misdemeanor Reclassification Subcommittee of the Criminal Justice Commission, they were then reviewed and approved in concept by the Public Defense Reform Interim Committee. The proposed changes affect certain grouse permits, taking of upland birds with exceptions, public use restrictions, evidence of species and Henry's Lake fishing limits. The bill also maintains the fine for existing infractions at \$72 but removes reference to the Idaho Infraction Rules. It also sets a \$250 fine for the infractions being migrated from misdemeanor to infraction status.

TESTIMONY: **Ms. Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game (IDFG) presented testimony on **H 161**. She stated that IDFG appreciated the opportunity to advise the Misdemeanor Reclassification Subcommittee in November, 2013 about reclassification of Title 36 misdemeanors to infractions. **H 161** is consistent with IDFG recommendations, and they appreciated the sponsors' effort to craft this legislation with their recommendations in mind.

Ms. Kiefer said they were aware of some confusion about Section (V), lines 46-50, on page 2, and lines 1-23 on page 3 of the bill. These rules are from IDAPA 13, Chapter 3 and they deal exclusively with public use of lands owned or controlled by the IDFG. They have nothing to do with "public" lands managed by the federal government or any other state political subdivision, and they have nothing to do with privately owned or managed lands.

MOTION: After some discussion, **Senator Nuxoll** moved that **H 161** be sent to the floor with a **do pass** recommendation. **Senator Cameron** seconded the motion. The motion carried by **voice vote**. Senator Lakey will be the floor sponsor.

GUBERNATORIAL APPOINTMENT: At precisely 2 p.m., a conference call was placed to Mr. Marc Brinkmeyer, Sandpoint, Idaho, who has been reappointed to the Lake Pend Oreille Basin Commission. **Mr. Brinkmeyer** said that he has been a resident of Bonner County since 1982, coming from Oregon. He started working for Riley Creek Lumber and through that process, he has been involved in various industry, environmental, and global efforts in the Intermountain West. He is presently chairman and owner of Idaho Forest Group. They are the largest producer of lumber in the Intermountain West and the tenth largest in North America.

Mr. Brinkmeyer began his education in engineering but changed course and graduated with a degree in Finance and Accounting from Buena Vista University in Storm Lake, Iowa. He received his CPA certificate during his time with Arthur Andersen and Company in Oregon. Mr. Brinkmeyer furthered his education in taxation, mergers and acquisitions, public offering, and various forms of finance.

The last few years, Mr. Brinkmeyer has been involved with the Lakes Commission, which includes Priest Lake, Pend Oreille Lake, and the Clarkfork. He feels it gives him the opportunity to contribute to the community. He has worked with the fisheries issue, the Kalispell Tribe, and lake level issues. **Mr. Brinkmeyer** said he has enjoyed working with the various groups and feels they have brought some comfort to the citizens of North Idaho and some value to their area.

An inquiry was made as to the lake level, fisheries, power supply, and cooperation among the agencies in that area. **Mr. Brinkmeyer** said in regards to fisheries, he feels that Idaho Fish and Game has done a tremendous job, especially with putting fish back in Pend Oreille. The lake level issue is a sensitive one. The lake owners group have banded together and has become an organized voice with their concerns. Most recently there has been involvement with the Kalispell Tribe as they deal with issues on the lower part of the Pend Oreille River below the dam. **Mr. Brinkmeyer** feels the issues are improving because they have good communication with each other. They do not have authority but are recognized as a voice of reason and a place where all the parties can come together and talk about the issues.

Chairman Bair thanked Mr. Brinkmeyer for the interview and said the Committee would consider his appointment at the next meeting.

Chairman Bair welcomed Mr. Tom Schultz, Director of the Idaho Department of Lands (IDL), who presented **H 47**.

H 47

Director Schultz said this legislation is a proposed amendment to Idaho Code § 58-104. Idaho gained title to the beds of navigable waterways at statehood in 1890 under the equal footing doctrine. The public trust doctrine says that the state holds title to navigable waterways in trust for public benefit, and was incorporated in Idaho Code Title 58, Chapter 12. IDL administers the use and disposition of lands in the beds of navigable lakes, rivers, and streams.

IDL administers the Idaho Lake Protection Act and regulates encroachments such as docks, marinas, and bridges over navigable waterways. It also leases the beds of navigable waterways for marinas and mining activities. Revenue and expenses related to the management of these submerged lands are associated with the General Fund.

The proposed amendment consists of three parts: 1) the creation of a dedicated fund; 2) money in excess of what is needed would be transferred into the Waterways Improvement Fund; and 3) mineral royalties would be deposited into the Public School Permanent Endowment Fund. A copy of Director Schultz's full testimony is attached (see attachment 1).

Director Schultz talked about the first part of the amendment. He stated that revenue generated from navigable waterways, excluding mineral royalties, would be deposited into this fund and used for the administration of navigable waterways pursuant to appropriation. The average yearly revenue generated is \$550,000 with average yearly expenses of \$550,000. IDL expects this trend to continue.

The second part of the amendment talks about the money in excess of that needed to fund activities, which would be transferred into the Waterways Improvement Fund. This fund is managed by the Idaho Parks and Recreation Board, and from this fund grants are awarded to city, county, state, and tribal entities to help with the costs of projects such as marking waterways, improving boat ramps, and search and rescue.

The third part is about mineral royalties. This fund is managed and invested by the Endowment Fund Investment Board and interest earned is used to fund public schools. Currently, about 4,600 acres of submerged public trust lands are under lease through mineral, oil and gas leases.

MOTION:

Following a discussion, **Senator Stennett** moved that **H 47** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Cameron asked to be recorded as voting nay. Senator Stennett will be the floor sponsor.

H 124

Representative Boyle said this legislation, **H 124**, will clarify that oil and gas spacing units be described in accordance with the public land survey system, and exceptions to spacing units require the consent of a majority of mineral interest owners. The legislation also provides for the exclusion of federal mineral acreage from unit operations upon application to the Idaho Oil and Gas Conservation Commission, should the federal government fail to lease.

The Bureau of Land Management (BLM) announced they will lease a small amount of acres on May 28 but will have to wait until their resource management plan is in place before they can lease more land. When asked why this legislation was necessary, **Representative Boyle** replied that everyone in the unit has to be in agreement to allow for the development of the field. Utah and Montana have used this exclusion and have not had any problems with the BLM.

- MOTION:** **Senator Brackett** moved that **H 124** be sent to the floor with a **do pass** recommendation.
- TESTIMONY:** **Ms. Alma Hasse** testified against this bill. She said it was theft of the federal government's property, and it sets a bad example for Idaho children. She stated there is a way to off-set the drilling and that is by making the units smaller.
- TESTIMONY:** **Mr. Jim Plocinski**, a Payette County resident, was next to testify, and he said it is an overreach of the government. He is not in favor of this legislation.
- TESTIMONY:** **Ms. Suzanne Budge**, representing the Idaho Petroleum Council, said that this work is a product of industry consensus, as well as working with the agency, to ensure that the language was compatible with how they did business. The Petroleum Council is a broad group of interested parties that represent industry infrastructure; not only the operators in this business, but also the pipeline companies, as well as landowners. Ms. Budge then deferred the rest of her time to Mr. John Pieserich.
- TESTIMONY:** **Mr. Pieserich**, Alta Mesa, spoke to the legal issues associated with this legislation, one of which is specific spacing provisions. He stated that the reason they are asking for this is because the federal government is the one party that is immune to integration and forced pooling provisions, and the reason is because it is a constitutional issue.
- Chairman Bair** said there is a motion before the Committee to send **H 124** to the floor with a do pass recommendation and inquired if there was a second. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.
- H 125** **Senator Lee** presented **H 125** and said that it revises a definition relating to oil and gas wells by amending Idaho Code § 47-318 to include "condensate" in the definition of the term "gas." This bill restores original language which has existed since 1963 to the oil and gas section of Title 47. The language was inadvertently omitted in 2012 when these statutes were updated as part of a comprehensive revision to regulation of the oil and gas industry in Idaho.
- No one was signed up to testify on this bill, and there was no Committee discussion.
- MOTION:** **Senator Nuxoll** moved to send **H 125** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Lee is the floor sponsor of this bill.
- ADJOURNED:** **Chairman Bair** thanked all the participants, then adjourned the meeting at 3 p.m.

Senator Bair
Chair

Juanita Budell
Secretary