

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 25, 2015

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

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) meeting to order at 8:02 a.m. and welcomed Senator Cameron.

S 1155 **Relating to Flags Flown at Half-Staff to Authorize the Governor to Order Flags to be Flown at half-staff Honoring Fallen Service Members.**

Senator Cameron explained that fallen soldier monuments, such as the one in Rupert, often have their flags flown continuously at half-staff. Currently, the Governor is only permitted to order the flag to be flown at half-staff for one day. **S 1155** extends the authority of the Governor to order flags to be flown at half-staff from one day to up to one year. He introduced Gary Schorzman, Damian Rodriguez and George Maas to explain the bill in greater detail.

Gary Schorzman, Rupert, said the Rupert monument was intended to represent all of Idaho's fallen soldiers dating back to Idaho's territorial days. The symbolic nature of a flag at half-staff is an important feature of the monument. He expressed his support for **S 1155**.

Damian Rodriguez, Commander, American Legion Post 77, Paul, asked to allow the flag to be flown at half-staff once again. The monument can not properly honor or commemorate the fallen soldiers without it. He strongly supports **S 1155**.

George Maas, Navy veteran, said the monument is a reminder of the lives given in sacrifice for the country. The flag flown at half-staff is an important piece of the fallen soldier monument. **Mr. Maas** talked about the history and the people involved in the development of the monument (see attachment 1). He urged the Committee to pass **S 1155**.

Senator Stennett asked which term was most appropriate, half-staff or half mast. **Senator Cameron** replied either term was correct though the flag code only used the term half-staff. **Senator Stennett** wanted to know if authority to fly the flag at half-staff was renewed annually or in perpetuity. **Senator Cameron** said, after discussing the issue with the Attorney General's office and the Governor, the decision was made to make it an annual renewal. **Senator Stennett** asked if this bill would extend authority to other instances when the flag would be flown. **Senator Cameron** said the language in **S 1155** allows the Governor to order the flag flown at half-staff for up to a year at any fallen soldier memorial within the state.

MOTION **Senator Winder** moved to send **S 1155** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

HCR 15 **A House Concurrent Resolution to Celebrate the 125th Anniversary of Statehood for the State of Idaho.**

Representative Bateman said **HCR 15** commemorated the statehood of Idaho. It would honor the pioneers and founders of the State. He provided a history of the founding and development of early Idaho (see attachment 2).

MOTION: **Senator Lodge** moved to send **HCR 15** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

HJM 3 **A House Joint Memorial to Urge the Government of Turkey to Respect the Rights and Religious Freedoms of the Ecumenical Patriarchate of the Eastern Orthodox Church.**

Representative Erpelding said **HJM 3** was similar to joint memorials enacted by other states. He explained the Orthodox Church's religious structure and their relationship to the Turkish government. **HJM 3** was in agreement with the United States Commission on International Religious Freedom (see attachment 3).

Senator Davis asked if this issue was an ongoing concern. **Representative Erpelding** said the Turkish government was making progress in the area of religious freedom. However, there are areas that need significant improvement. **Senator Davis** asked if Representative Erpelding had received, studied and considered the letter from the Consul General in Los Angeles. **Representative Erpelding** said the letter did not seem to reflect the contents of **HJM 3**. **Senator Davis** asked if the contents of the joint memorial had been reviewed with the Consul General's office. **Representative Erpelding** said he had not consulted with them. He did not see the letter until this morning. Given enough time, input would have been sought from both the local Turkish community and the Consul General's office.

MOTION: **Senator Buckner-Webb** moved to send **HJM 3** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Davis said he supported the motion but would like Representative Erpelding to reach out to the Consul General's office to discuss the language and intent of **HJM 3**.

The motion carried by **voice vote**.

H 155 **Relating to Violations of the Open Meeting Law to Increase Monetary Civil Penalties for Violations of the Open Meeting Law.**

Representative Bateman explained that the fine increases associated with violating the Open Meeting Law have not been updated since the 1940s. The increases in the bill only reflect the rate of inflation and lend integrity to the Open Meeting Law and its penalties.

TESTIMONY: **Katrina Franks**, Risch Pisca Law Firm on behalf of the Newspaper Association of Idaho (NAI), spoke in favor of **H 155**. She said the bill is a responsible initiative in maintaining the transparency of open meetings.

Senator Davis inquired as to the language of "pursuant to subsection 3" on line 21, page 1, and asked if it excluded other statutory violations. **Ms. Franks** replied the inclusion was to differentiate between an unknowing violation and a knowing violation of the law. **Senator Davis** asked about the standards of violations of Subpart 2 of current code; that standard exists whether or not it is a knowing or unknowing violation. **Ms. Franks** referred to Subsection 3 that states a knowing violation is subject to a penalty not to exceed \$1,500.

Senator Davis asked if Subpart 2 applies for a knowing violation or an unknowing violation or both. He stated he wanted to know what the knowing standard is in Subpart 2. **Ms. Franks** responded that the knowing standard was set by the Idaho Supreme Court (Court) in 2008. It is up to the discretion of the Court, and there is a standard in place.

Representative Russ Mathews, representing himself and Russell and Reed Enterprises, said he was in favor of **H 155** but that some amendments could be made to enhance the effectiveness of the bill.

Senator Davis asked if Representative Mathews had presented the proposed amendments as separate legislation to the House. **Representative Mathews** said he had discussed legislation with both committees, but only **H 155** received a hearing.

Senator Hill asked for clarification concerning the amendment Representative Mathews was proposing. Was it presented to a House committee and they elected not to run that legislation, and would it have done the same thing his amendments do. **Representative Mathews** said the discussions took place, but the only hearing that occurred was on **H 155**.

Senator Davis said he is having trouble understanding the structure of **H 155**. The effect of Subpart 4 appears to say that an unknowing violation would be subject to a \$2,500 penalty and a knowing violation is \$1,500. That disparity doesn't make sense. Then line 21 refers back to Subpart 3 where it says a knowing violation is subject to a \$1,500 fine; they replicate each other. He wants to vote for the bill but didn't understand how it works.

Representative Mathews explained that the intent was to have more stringent fines when people knowingly violate the law. There should be a different measure for those who knowingly and premeditatedly violate the law.

Chairman McKenzie stated he would also like clarification because he interpreted the language similarly to Senator Davis. If there is a knowing violation in Subsection 3, then for the next 12 months, if any provision is violated regardless of whether it is knowing or otherwise, one could be subject to the \$2,500 penalty in Subsection 4.

Jeremy Pisca, Risch Pisca Law Firm representing the Newspaper Association of Idaho (NAI), explained the fine schedule of **H 155**.

1. Subsection 2 applies to everyone, knowing or unknowing and the violation is not to exceed \$250.
2. Subsection 3 pertains to someone who knowingly violates the statute and the penalty is not to exceed \$1,500.
3. Subsection 4 states that if there is a previous violation within the prior 12 months, or an admission of doing so, the fine increases to an amount not to exceed \$2,500.

The Committee continued to discuss the nuances of the fine schedule for knowing and unknowing violations of the Open Meeting Law. **Senator Davis** stated that some would read the phrase "pursuant to subsection (3)" and they were to believe it applied to everything in Subpart 4; that is not how he reads it. **Chairman McKenzie** agreed.

Senator Hill said he believes the "pursuant to subsection (3)" does apply to both sides of the "or", whether they have admitted to a violation of Subsection 3 or whether they have previously been determined to have committed the violation under Subsection (3); it applies to both. However, it does not apply to the first part of Subsection 4 which deals with any provision of the act. He has some problems with that section.

Chairman McKenzie thought Subsection 4 could be taken out then added to Subsection 3: a second knowing violation within a 12 month period could be subject to a civil penalty up to \$2,500.

Senator Winder stated that when a person serves in office and gets a public meeting violation, they better pay attention. If a second one occurs within a year, the violator should get a hard penalty.

Representative Bateman added that it is rare to have cases where there are violations. This is a statement to encourage public officials to recognize the integrity of their meetings. He agrees with Senator Winder.

Chairman McKenzie said he would attempt to do the amendments in the time allotted.

MOTION: **Senator Winder** moved to send **H 155** to the 14th Order for possible amendment. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 11-0402-1401 **IDAPA 11 - IDAHO STATE POLICE, IDAHO RACING COMMISSION 11.04.02 - Rules Governing Simulcasting - page 3**

Chairman McKenzie said this rule is related to instant racing. The House State Affairs Committee voted the bill related to historic horse racing out. However, it has not been heard on the House floor.

DOCKET NO. 11-0409-1401 **IDAPA 11 - IDAHO STATE POLICE, IDAHO RACING COMMISSION 11.04.09 - Rules Governing Claiming Races - page 6**

DOCKET NO. 11-0410-1401 **IDAPA 11 - IDAHO STATE POLICE, IDAHO RACING COMMISSION 11.04.10 - Rules Governing Live Horse Races - page 9**

MOTION: **Senator Hill** moved to approve **Docket Nos. 11-0409-1401** and **11-0410-1401**. **Senator Stennett** second the motion. The motion carried by **voice vote**.

Senator Winder asked if Chairman McKenzie's intent was to postpone action on **Docket No. 11-0402-1401** until the House had made a decision. **Chairman McKenzie** said the ideal action would be to make a unanimous consent request to delay action until March 27, 2015.

UNANIMOUS CONSENT REQUEST: **Senator Winder** asked for unanimous consent to hold **Docket No. 11-0402-1401** in Committee until Friday, March 27, 2015. There being no objections, the docket will be taken up at Friday's meeting.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 9:20 a.m.

Senator McKenzie
Chair

Twyla Melton, Secretary

Jenny Smith, Assistant Secretary