

MINUTES

HOUSE ENVIRONMENT, ENERGY, & TECHNOLOGY COMMITTEE

DATE: Monday, February 08, 2016

TIME: 1:30 P.M.

PLACE: Room EW41

MEMBERS: Chairman Thompson, Vice Chairman Anderst, Representatives Raybould, Hartgen (Hartgen), Vander Woude, Nielsen, Anderson, Mendive, Trujillo, Beyeler, Chaney, Nate, Scott, Smith, Rusche, Jordan, Rubel

**ABSENT/
EXCUSED:** Rep. Vander Woude

GUESTS: Kelli Brassfield, IAC; Ron Law, IDPC; Ken Miller, Snake River Alliance; Miguel Legarreta, Ada County Realtors; Neil Colwell, Avista Corp.; Will Hart, ICUA

Chairman Thompson called the meeting to order at 1:30 p.m.

MOTION: **Rep. Chaney** made a motion to approve the minutes of the February 2, 2016 meeting.

**SUBSTITUTE
MOTION:** **Rep. Smith** made a substitute motion to approve the minutes of the February 2, 2016 meeting with the following corrections: on page 1, paragraph 3, insert the word "data" after the word "old" and change the wording to clarify the remainder of the sentence. **Motion carried by voice vote.**

RS 2438C1: **Neil Colwell**, Avista Corporation, introduced **RS 2438C1** to the committee. He represented the Underground Facilities Damage Prevention Coalition. The purpose of this RS is to regulate underground digging to decrease damage to underground facilities. The legislature needs to act to control its own interests in this issue. Otherwise the federal agency called the Pipeline and Hazardous Materials Safety Administration (PHMSA), subagency of the US Department of Transportation, will regulate on the issue of damage to underground facilities. This is based on the PHMSA law enacted in 2006. PHMSA looks at the dig laws in each state to determine if they are adequate or inadequate. There was further legislation in 2011 which set civil penalties of \$200,000 per day, per violation, as a federal regulation. The rule became effective January 1, 2016. Of the seven criteria listed on this rule, Idaho would fail on six of them.

It will be far better for Idaho's legislature to improve its dig laws. The Idaho dig law is dated 1990. The goal of the board is to create a solution that would minimize state involvement. If PHMSA determines Idaho laws are adequate by their yardstick, they could not provide enforcement. If Idaho addresses the deficits in the six criteria where it does not meet the standards, it will preclude PHMSA from coming to a determination against Idaho.

There are 45 parties interested in the bill, including stakeholders such as Idaho utilities, underground facility owners, builders and contractors, excavators, the Association of Cities, Realtors, highway districts, sewer and water districts, agricultural communities, and Idaho water users.

The dig law currently on the books has been in place for 26 years. The changes to the dig law would create a board of stakeholder interests. The board would collect and analyze data related to dig-ins. It would eliminate the ineffective method of enforcement currently in use, in which parties must sue each other. The board would consist of 11 members, including stakeholders, city, county, and permitting entities, and would provide representation for underground facility owners and utilities. It would contain equal numbers of representatives of contractors and excavators and represent the agricultural community.

The goal is to create a forum where all parties come together to solve problems, adopt best practices, educate the public, dispute resolutions, and draft rules. The board would be housed at the Division of Building Services, where the administrative support for electrical, plumbing, and public works boards are located. The board can only propose rules to be adopted.

The board is supported by two funds. The board would be paid for by the underground facility owners. When a company calls 811 to locate underground facilities, the company is charged a fee for the notification. A surcharge on the fee of \$0.10 per locate call would generate funds to operate the board. The second fund would contain any civil penalties created under this act; that fund would only be used for public education efforts.

Through the Division of Building Safety, the board requested a grant from PHMSA to generate funds to start the board in 2015. Since the board was not created then the funds were not utilized. The board made a similar request this year, and it anticipates it will use the funds. Any money in the fund not used to create the board is dedicated to educational efforts. Currently the board has relied on voluntary reporting of dig-ins. The rate of dig accidents in Idaho is double the national average due to incomplete data. The board would like to create an accident form that shows who was involved in the accident, how the company hit facilities due to a miss-mark, and where to seek improvement. It would also contain a feedback loop.

MOTION: Rep. Chaney made a motion to introduce **RS 2438C1**.

Mr. Colwell answered questions from the committee, stating his company, Avista, began to pursue this bill due to the excessive rate of dig-ins. It is a safety issue. It is important to protect the public and the underground facilities. The benefit of the coalition has been that the trust level has increased between members, and the parties have gained a sense of collaboration. Idaho is better off having a forum. The original federal motivation for the dig law was the occurrence of several large accidents that caused loss of life; so it really is about public safety.

VOTE ON MOTION: Chairman Thompson called for a vote on the motion to introduce **RS 2438C1**. Motion carried by voice vote.

Mr. Colwell answered further questions from the committee, saying Idaho's records of underground facilities are far more complete than federal records, which are mainly composed of interstate pipelines. The One Call Notification Services Center used to rely on hand-drawn maps, but now it has a computer database with GPS coordinates.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:58 p.m.

Representative Thompson
Chair

Diana Seba
Secretary