

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Monday, February 27, 2017

TIME: 9:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Monks, Representatives Luker, Crane, Palmer, Barbieri, Holtzclaw, Harris, Armstrong, Giddings, Manwaring, Zito, Scott, Smith, Jordan

**ABSENT/
EXCUSED:** None

GUESTS: Fred Birnbaum, Idaho Freedom Foundation; Chris Rich, Ada County Clerk; Michael Law, Hubert Osborne, Rachel Lindsey, Steve Berch, self; Nick Miller, Idaho School Board; Rob Winslow, Idaho Association of School Administration; Karen Echeverria, Idaho School Boards; Kathy Griesmyer, ACLU Idaho; Eric Heringer, Piper Jaffray

Chairman Loertscher called the meeting to order at 9:04 am.

MOTION: **Rep. Armstrong** made a motion to approve the minutes of Monday, February 20, 2017. **Motion carried by voice vote.**

H 121: **Mitch Toryanski**, Idaho Bureau of Occupational Licenses, presented on **H 121**, which removes the occupancy requirement for a driving training business unless it has a physical classroom. Classroom instruction has evolved via the internet and some businesses no longer have a physical classroom.

MOTION: **Rep. Luker** made a motion to send **H 121** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Holtzclaw** will sponsor the bill on the floor.

H 188: **Chad Houck**, Director of Special Projects, Secretary of State, presented on **H 188**, which would require all filings of all reports to county, city, and special district clerks to be filed in electronic format, reports to the Secretary of State to be filed online, and give the receiving official discretion to grant hardship waivers from this requirement. There may be a small positive fiscal impact, as this bill allows for more efficient filing with appropriate offices.

In response to questions on hardship exemptions, **Mr. Houck** stated in the event that a smaller jurisdiction, or one with a smaller budget, cannot receive something online, the official can grant a favor to those people with no internet or computer. The person would request a waiver in writing and receive a response in paper form.

Rep. Luker asked if any comments were received from people in smaller districts or communities. **Mr. Houck** replied no direct complaints or concerns had been received. The long term desire is to create a pathway for the Office of the Secretary of State as it upgrades its systems, so that services can be provided to smaller jurisdictions.

Rep. Luker is concerned about small cities where people wish to run for office, who might find the digital format to be an impediment. He asked if there is a time frame for filing the hardship waiver. **Mr. Houck** replied the same deadlines apply for all reports under this legislation. Of the 105 legislators, 85 to 86% are typing in their information; the remainder are handwriting in their information, which is then manually entered by staff into the system. Manually entering information slows the process down. Rep. Luker said he thought they were scanned in, rather than entered in. Mr. Houck replied all information is completely reentered. There is also a scanned copied, but it is hand entered so that all the information matches up.

MOTION:

Rep. Manwaring made a motion to send **H 188** to the floor with a **DO PASS** recommendation.

Rep. Luker understands the desire to move to a digital format, but he is concerned about excluding people from candidacy, since those in smaller communities might feel they do not have the ability to enter. He would prefer to have the pathway to make it possible for digital format, but not to mandate the digital format. He will vote no on the motion.

Rep. Harris said the point of one of the sunshine laws was to provide visibility, which has been accomplished, and this mandate appears strong-armed. **Rep. Manwaring** countered this is a 21st Century update to the recording system in the sunshine laws.

Chairman Loertscher said having used both the digital and paper format, he recommends the digital format; it is much simpler and easier.

VOTE ON MOTION:

Chairman Loertscher called for a vote on the motion to send **H 188** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Luker** requested he be recorded as voting **NAY.** **Rep. Manwaring** will sponsor the bill on the floor.

H 189:

Rep. Monks presented **H 189**, which prohibits the use of public funds in elections, outlines violations, and allows for the validity of an election to be challenged based on violations. This is needed because government entities should not be interfering in elections. Taxpayer dollars should not be used to push forward agendas that government entities support, such as for bonds or levies. There is no comparable platform for the opposing party. Rep. Monks gave an example that school children were given information discussing funding and bond election facts, which also included information on what happens if the bond fails; the opposition voice was not given the same opportunity. This is not appropriate. Government entities often work hard not to use taxpayer resources to push agendas; however, it is not always the case. This legislation is needed to ensure fair playing fields. All surrounding states have some form of statute that prohibits use of public funds for campaigning and electioneering; Idaho does not. The legislation is needed to clarify that it is not appropriate to use taxpayer money to push agendas.

Rep. Barbieri addressed the denotations on aspects trying to control behavior. If there is a single complaint from an individual, how is the determiner to weigh the information coming from the complainant. **Rep. Monks** responded the violation is where someone has made a complaint, then the attorney general and prosecuting attorney would determine if there is enough evidence to see if it should be further investigated. If there is, a hearing would occur. Rep. Barbieri asked if the duty to investigate existed, even when the incident is minor. Rep. Monks replied if there is a violation of the law, the determiner should address it, however insignificant it might look.

In response to concerns from the committee on **Section 74-605** of the bill not having a time frame, **Rep. Monks** said the section could be cleaned up. He is hoping **H 189** could be sent to General Orders so that language can be cleaned up and a time frame created.

Chris Rich, Ada county clerk, testified **in opposition to H 189**. He stated his office offers classes on elections and clerical aspects. He wonders if under this bill, he can continue doing this training, since public funds are used to do so. In the 2016 election, Ada County predicted a large turnout, so they promoted early voting. They encouraged this alternative voting, and advertised which parties were voting in proportion to the other party. Under **H 189**, it is questionable whether or not they could continue to do something like this.

After questions from the committee, **Mr. Rich** clarified that his concern with **H 189** is that there is not a specific exemption for educating voters on the voting process.

Fred Birnbaum, Vice President, Idaho Freedom Foundation (IFF), testified **in support of H 189**. Mr. Birnbaum stated IFF supports the bill because it protects taxpayers, ensures integrity of elections, and spurs more civic engagement. This legislation focuses government on their core duties. Taxpayers do not pay their tax dollars to promote political causes that officials find important but citizens may not support. There should not be naked promotion of agendas. In response to a question on whether or not IFF supports the concept of fining for violations, Mr. Birnbaum stated that IFF does not emphasize the fines, but highlights that public officials must follow the law. This bill is an improvement over what other states have.

Nick Miller, lawyer, Hawley Troxell, appearing on behalf of the Idaho School Board Administration, testified **in opposition to H 189**. He challenges the notion of whether or not there are measures already in place that address what **H 189** introduces. The distinction between advocacy and providing information is already in state law. Violations to this law include fines and criminal penalties. The Idaho Supreme Court has given a guideline on what is lawful when it comes to electioneering and spending public funds. Some issues arise on the differences between current law and **H 189**: current law provides a time limit for election challenges (which, among other things, ensures clear bond issuance), whereas this bill does not; current law has several procedural requirements in current statute for contesting an election, including the contester must verify the complaint and post a bond for contesting, whereas the new bill does not have these safeguards; and the election contest statute states that one must prove an election would be changed by use of funds, whereas **H 189** does not have this language. There are several defects from a legal standpoint on the contested elections process in **H 189**. In response to questions, Mr. Miller confirmed that Idaho already has election laws in place that address use of public funds and contested elections. He also stated that **H 189** does more than just add to current law: it also regulates where certain election-related promotions and advertisements can take place; in this aspect, it is more restrictive than current law.

Michael Law, self, and **Hubert Osborne**, self, retired dairyman, both testified **in support of H 189**. Mr. Law stated if taxpayers are opposed to a specific bond or election, yet they are required to pay for this promotion, then it is like paying a burglar to rob you.

MOTION: **Rep. Palmer** made a motion to send **H 189** to General Orders.

Rachel Lindsay, self, Fruitland, testified **in support of H 189**. During a bond campaign, she received several flyers educating heavily to one side of the issue, which she opposed. She felt small and helpless. She asked the Fruitland Treasurer where the money was coming from to fund expensive literature; it was from the city budget. The number of mailers were frivolous and taxpayer dollars were being wasted. She is not grateful for her tax dollars being spent this way. It causes unnecessary divide between citizens and officials, and she, as a citizen, would not be afforded the same funds to promote her side of the bond issue.

Chairman Loertscher stated the motion would be continued in the committee's next meeting.

ADJOURN: Due to time constraints, **H 189** will be carried over to the meeting of February 28, 2017 at 9:00 am. There being no further business to come before the committee, the meeting adjourned at 10:23 am.

Representative Loertscher
Chair

Shelby Winkel
Secretary