

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 06, 2017

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Bair, Vice Chairman Vick, Senators Siddoway, Brackett, Heider, Bayer, Johnson, Stennett, and Jordan

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

S 1118 **Senator Siddoway** said **S 1118** is a bill that is brought as a request from some landowners in Eastern Idaho that are having serious depredation problems. The Idaho Department of Fish and Game (IDFG) has 72 hours to respond to a complaint and to survey the damage. Actions are taken to encourage the animals to leave by shooting the animals with rubber bullets and also by gas-operated guns making loud explosions.

Senator Siddoway said currently, the Director of IDFG issues kill permits to the landowners that are having persistent depredation problems and the number of kill permits depends upon what kind of damage the landowner is experiencing. Up to ten kill permits may be issued to a landowner. When a landowner shoots an animal, he is obligated to dress out the animal, keep it in good condition, and notify IDFG. IDFG then picks up the animal and takes it in for processing. A portion of money from fines pays for the processing and the meat is then distributed among the needy.

Senator Siddoway said this legislation allows the landowner that has suffered damage to keep an animal that has been harvested from one of the kill permits. If the damage persists, the landowner may keep a second harvested animal.

Senator Stennett asked for clarification regarding the number of kill permits. **Senator Siddoway** said it is at the discretion of the Director as to how many kill permits may be issued. **Senator Stennett** asked if it was correct that a landowner could keep one, or perhaps two, harvested animals for their use. **Senator Siddoway** said that was correct. **Senator Stennett** inquired if big game animals could be taken at an established feed site. **Senator Siddoway** responded by saying animals at an established feed site are protected. The kill permits are only for areas of depredation.

TESTIMONY: **Sharon Kiefer**, Deputy Director, IDFG, said **S 1118** provides additional direction relative to the Director's existing authority to provide authorization for possession of wildlife taken through a control action, such as a depredation kill permit, that is property of the State. IDFG does not believe this direction creates a conflict for other sections of Idaho Code or the Director's duties. **Ms. Kiefer** said the Fish and Game Commission (Commission) supports **S 1118**.

MOTION: **Vice Chairman Vick** moved that **S 1118** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Senator Siddoway will be the floor sponsor.

H 90

Ms. Kiefer said **H 90** aligns H 161, passed in 2015, with a Commission rule docket, also upheld by the Legislature in 2015. H 161 reclassified several existing fish and game misdemeanors to infractions; this was a bill the Fish and Game Commission supported. **Ms. Kiefer** said the purpose behind the reclassification was to better align punishment with crimes committed and save costs related to public defense, while maintaining penalties adequate for deterrence and enforcement. These changes originated with IDFG's input to recommendations from the Misdemeanor Reclassification Subcommittee of the Criminal Justice Commission, which were then reviewed and approved in concept by the Public Defense Reform Interim Committee.

Ms. Kiefer stated that one of the new infractions was (U) on page 2, lines 36-41, dealing with violating upland game bird shooting hours during the pheasant season on four WMAs where pheasants were stocked, so Upland Bird Permit requirements applied. At the same time this bill was moving through the Legislature, IDFG had a pending rule (Docket No. 13-0109-1401) moving through to final rule that allowed the Commission to designate shooting hours via proclamation for Wildlife Management Areas with Upland Game Bird Permit requirements. The rule provided greater flexibility during season setting to add (or subtract) WMAs with Upland Game Bird Permit requirements that had shooting hours. **Ms. Kiefer** said because of modifications in IDFG's pheasant stocking program, the Commission proceeded to add five new WMAs with shooting hours via proclamation as part of season setting. This can be found on page 11 of the Idaho Upland Game, Furbearer & Turkey Season and Rules brochure for 2016 and 2017.

Ms. Kiefer said that without this legislative change, violating the shooting hour at the four WMAs currently in section (U) would remain an infraction, but violating the shooting hours at the five new WMAs that the Commission has proclaimed for shooting hours would be a misdemeanor. IDFG believes consistency as an infraction is the right course. **Ms. Kiefer** said the Fish and Game Commission supports this bill and asks for a do pass recommendation.

MOTION:

Senator Siddoway moved that **H 90** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Heider will be the floor sponsor.

H 53

Mike Murphy, Endowment Leasing Bureau Chief, Idaho Department of Lands (IDL), presented **H 53** addressing oil and gas lease length. Currently, the length of the leases are for exactly ten years.

Mr. Murphy said that during the negotiated rulemaking process for IDAPA 20.03.16 conducted during the summer of 2016, IDL identified the need for oil and gas leases with shorter terms. Accordingly, rule language was adjusted, reviewed, and approved by this Committee earlier in the Session. **Mr. Murphy** said revised rule language removes the ten year lease length to instead reference Idaho Code § 47-801 to establish lease lengths. IDL proposed the rule change with the intent to introduce accompanying legislation to amend the statute and allow for oil and gas leases of any length up to ten years.

As part of the process, IDL reviewed lease lengths in other western states with active oil and gas leasing programs. Lease length typically depends on the level of production and existing infrastructure, but most states with fully developed oil and gas fields offer leases in the three to five year range, with frontier areas tending toward ten years. **Mr. Murphy** said that given this range, IDL is seeking flexibility in setting lease lengths to encourage production opportunities where they exist and to maximize revenue potential for the beneficiaries. To this end, IDL has proposed adding the words "up to" to the existing statute which would give IDL discretion to offer leases for any length up to ten years.

Mr. Murphy stated that discussion of this proposed statute change occurred during the negotiated rulemaking process. No party objected to the proposed change, recognizing that IDL has discretion to set lease lengths for other leases, such as grazing and cottage sites, for terms shorter than the statute-identified maximums. The only concern expressed cautioned that IDL not set oil and gas lease terms too short for reasonable development of wells and infrastructure.

Mr. Murphy said that with this statute change, IDL is simply seeking flexibility in setting appropriate lease terms - terms that encourage oil and gas development to the benefit of the endowed beneficiaries, and terms that balance the practical needs of the operator. As oil and gas development in Idaho progresses, IDL will continue to monitor the pace of development, and with input from oil and gas operators, will work to identify appropriate lease lengths for future oil and gas leases on an individual basis. **Mr. Murphy** said all of the leases will be offered at public auction.

MOTION:

Senator Johnson moved that **H 53** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. Senator Johnson will be the floor sponsor.

H 64

Eric Wilson, Resource Protection and Assistance Bureau Chief, IDL, presented this bill on administrative procedure improvements for the Oil and Gas Conservation Commission.

Mr. Wilson said IDL is the administrative agency for the Idaho Oil and Gas Conservation Commission. The Commission's duties under Idaho Code § 47-3 are to prevent waste during the exploration and development of oil and gas resources, protect the correlative rights of mineral owners, and protect fresh waters during oil and gas development on all federal, state, and private lands in Idaho.

H 64 proposes changes to three sections of Idaho Code § 47-3, beginning with Section 320 on page 1. The changes include:

- The completeness review timeframe for drilling and other administrative permits is eliminated, but total processing time is kept at 15 business days.
- Permit review times for Idaho Department of Water Resources and the public are synchronized.
- Some applications are excluded from public review because they do not increase surface disturbance and the activities are restricted to an existing well bore.
- Permit applications submitted and processed under Subsection 324(c) are excluded from the 15 day approval deadline.
- Some additional administrative permits are now included.

The second section with changes is Section 322, which starts near the top of page 3. Substantive changes include:

- Royalty of 1/8th is changed to a minimum.
- Bonus payments for leased and deemed lease options are clarified.
- Objector option for integration is removed.
- Newspaper publication requirements are modified to conform to Idaho Code § 60-106.
- The last paragraph of 322(c) was deleted because it is largely a duplicate of the working interest owners language in 322(c)(i) and (ii).

The last section with changes is Section 324, which starts near the top of page 6. Substantive changes include:

- The completeness review for applications processed under Subsection 324(c) is eliminated, but IDL has five days to notify the applicant if additional information is needed to evaluate the application. This does not affect the hearing schedule, but if additional information is not submitted, IDL may file an objection with the Hearing Officer.
- Mailing and notification requirements are modified. The applicant is responsible for redacting and mailing applications to potentially affected parties and the local city or county. Mailings must be done at least 45 days prior to the hearing, which is the same as the filing deadline with IDL.
- Objections or responses to an application with a hearing must now be filed 14 days prior to the hearing.
- If an application is uncontested, a pathway for approval without a hearing is provided.
- IDL will now hold regularly scheduled hearings for integrations and other applications that require a hearing. An application must be received 45 days prior to a scheduled hearing or it will be held over to the next hearing date. IDL staff may also testify at a hearing.
- The avenue for appeals and judicial review is clarified.

Mr. Wilson said that stakeholder feedback was solicited during September and October of 2017. This included Lone Tree Petroleum, AM Idaho, Idaho Conservation League, the Idaho Organization of Resource Councils, and Payette County Commissioners. The draft bill language was posted on IDL's website, and several meetings were held with these stakeholders. **Mr. Wilson** said the bill language was modified to address the stakeholders concerns prior to submittal at the October Commission meeting. Additional changes were discussed with the stakeholders during a recess at that Commission meeting before the final bill language was approved.

Senator Stennett inquired about the fees being charged and if they were enough to cover the costs. **Mr. Wilson** replied that for some of the applications, the costs are adequately covered, but for other applications, such as integrations, they are not. IDL chose to not ask for any fee increases at this time. **Senator Stennett** asked about communication between IDL and the Department of Environmental Quality (DEQ). **Mr. Wilson** said IDL has a memo of understanding (MOU) with DEQ that was signed about two years ago and the process is working quite well.

Senator Johnson asked what the difference was between a lease and a deemed lease. **Mr. Wilson** said that after an integration and it is approved, there is an election period. During the election period and after the hearing, the landowner can elect to sign the lease or do nothing. By doing nothing, that is a deemed lease. Under a deemed lease, the landowner receives a one-eighth royalty, but does not have a contract. By signing a lease, a landowner's royalty is no less than one-eighth, but could be substantially more.

**WRITTEN
TESTIMONY:**

Julia Page, board member of Idaho Organization of Resource Councils, submitted written testimony opposing **H 64**. Ms. Page supports the provision for IDL to have set hearing dates, a timeline for the submittal of applications requiring a hearing, and more time for IDL in preparing for a hearing. However, Ms. Page wrote that the bill fails to provide clear timelines or a clear process for landowners faced with oil and gas development to have meaningful engagement in the approval process.

MOTION: **Senator Siddoway** moved that **H 64** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Vice Chairman Vick will be the floor sponsor.

H 51 **Lori Thomason**, Executive Director, Idaho Outfitters and Guides Licensing Board (OGLB), presented **H 51** and said the intent of this bill is to clarify the license year between Idaho Code § 36-2102(g) and Idaho Code § 36-2109. This clarification will make the two statutes consistent with each other. It clarifies that 36-2102(g) will read "license year" means that period of time beginning on April 1 and expiring March 31 of the following year. **Ms. Thomason** indicated that there is no fiscal impact for this clarification.

MOTION: **Senator Bayer** moved that **H 51** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Bayer will be the floor sponsor.

MINUTES APPROVAL: **Senator Brackett** moved to approve the Minutes of February 20, 2017. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Bair** adjourned the meeting at 2:25 p.m.

Senator Bair
Chair

Juanita Budell
Secretary