

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 20, 2017

TIME: 1:15 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Davis, Hill, Winder, Lodge, Lakey, and Stennett

ABSENT/ EXCUSED: Senator Buckner-Webb

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 Siddoway** called the Senate State Affairs Committee (Committee) to order at 1:15 p.m.

Senator Bart Davis explained that he, Chairman Siddoway, Eric Milstead from LSO, and Representative Brent Crane worked together on the bills on this agenda. He pointed out that normally the two resolutions would go to the Senate Judiciary and Rules Committee, but because the resolutions and the bill are related and three of the Judiciary and Rules Committee also sit on this Committee, the consensus was that bringing all three pieces of legislation before State Affairs was appropriate.

SR 101 **A SENATE RESOLUTION providing for the addition of a new Rule 54 to the Rules of the Senate related to a contested election.**

Senator Davis announced that this resolution establishes a new rule providing for procedures on the Contest of Election and only requires that the Senate adopt it. According to the Idaho State Constitution, the Senate is the author of its own rules. He indicated that from the time the Senate adjourns sine die until the organizational meeting of the following session, there are not rules in effect. **Senator Davis** felt that, although some of the election contest procedures are in statute, some should be governed by rule. **SR 101** provides election contest procedures dealing with the following:

- proof and record;
- filing and contents of the Memorandum outlining the claim;
- Responsive Memorandum;
- discovery dispute;
- committee hearing procedure;
- ex parte communication;
- service of documents; and
- absence of limits of the Senate.

MOTION: **Senator Lodge** moved to send **SR 101** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

SCR 124 **SENATE CONCURRENT RESOLUTION providing for the addition of a new Joint Rule 22 of the Joint Rules of the Senate and the House of Representatives related to a contested election.**

Senator Davis commented that this is a joint rule applying to election contest of executive offices. Other than that focus, **SCR 124** is the same as the **SR 101**. He said the House rule is similar to this rule.

Senator Hagedorn inquired if the term "executive officers" referred to constitutional officers or leadership officers within the Legislature. **Senator Davis** replied that this refers to constitutional officers.

MOTION:

Senator Hagedorn moved to send **SCR 124** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

S 1190

RELATING TO ELECTIONS AND ELECTION CONTESTS repealing Chapter 21, Title 34, Idaho Code related to election contests and the addition of a new Chapter 21, Title 34, Idaho Code related to election contests.

Senator Davis explained that **S 1190** repeals and replaces Idaho Code (I.C.) § 34-2134. He referred to page 9 of the bill and advised that beginning with I.C. § 34-2120 to the end of the bill, except section 3 of the bill, is basically the same as in the original code.

Senator Davis noted that this bill is organized differently, but it is congruent with current procedures. He pointed out terms in the list of definitions that have been clarified. He related that I.C. § 34-2104 identifies the grounds of contest, which are mostly the same except for clarifying language, and that it limits the defalcation and fiduciary capacity to the individuals actually handling money.

Elaborating on I.C. § 34-2107, **Senator Davis** specified that misconduct on the part of the judges is sufficient to set aside the election only if that misconduct would change the election. He continued discussing further sections involving time periods, service of notice, the grounds for contest, and discovery. **Senator Davis** advised that the Contest of Election cannot be amended after the twentieth day. He further explained that summary dismissal may occur when the contest is not worthy of being advanced, offering examples of instances when this might happen. He related procedures relating to failure to advance the contest, stay of proceedings, and ratification.

Senator Davis summarized I.C. § 34-2110 regarding oral examinations, depositions, and subpoenas. He continued on page 6, briefly noting clarification of language related to testimony, production of papers, examination of poll books and ballots. He identified the steps to be taken in moving the papers through the contest procedure. **Senator Davis** set forth the selection of the committee to hear the contest, and he highlighted the responsibilities of the leadership and members of the committee.

According to **Senator Davis**, the security bond amount of \$500 was insufficient, so that amount has been increased to \$1,000 which he considers still inadequate. He identified the attorney's fees that may accrue during the contest, and he explained how these fees may affect the contestee and the constestor.

Chairman Siddoway expressed appreciation to those who worked on the bill, stating that this would give clear direction to future State Affairs Committees who may have to deal with Contest of Elections. He observed that when this situation arose there was little direction, but with the help of Senator Davis, Senator Hill, and Eric Milstead, the resulting procedural plan will serve the Committee well.

Senator Davis acknowledge the assistance of Senator Burgoyne and former Representative Ruchti for their review and input into the development of the bill.

MOTION:

Senator Hill moved to send **S 1190** to the floor with a **do pass** recommendation. **Second Lodge** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: There being no further business at this time, Chairman Siddoway adjourned the meeting at 1:45 p.m.

Senator Hagedorn
Vice Chair

Twyla Melton
Secretary

Carol Cornwall
Assistant Secretary