

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 21, 2019

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, and Guthrie

ABSENT/ EXCUSED: Senators Stennett and Jordan

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 Heider** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:31 p.m.

S 1001 **Gary Spackman**, Director of the Idaho Department of Water Resources (IDWR), explained **S 1001** amends Idaho Code § 42-1607 regarding the inventory and maintenance of artesian wells. It eliminates language contained in the original statute regarding a cost-share for which there was never an appropriation.

Director Spackman advised that after the print hearing on this bill, discussions took place with the Governor's office and other interested third parties concerning additional language changes to this bill. It is his understanding that those proposals for changing the language of **S 1001** have been fruitful, and some agreement has been reached regarding its future.

Director Spackman acknowledged that these newly proposed changes have not been put in legislative form. He offered to present the original bill as it is currently written, or to allow some other process to go forward to incorporate those changes in the language and then bring **S 1001** back before the Committee.

DISCUSSION: **Senator Mortimer** said he was unfamiliar with the language in the original 1980s statute and asked Director Spackman to provide some history.

Director Spackman indicated that when the original statute was enacted, there was a great deal of anxiety regarding the possible listing of the Bruneau hot spring snail as an endangered species. The snail needed the hot springs to survive. The concern was if the snail was listed as an endangered species, then many of these water rights, which authorized the diversion of water from the artesian wells, would be either controlled or eliminated.

Senator Mortimer asked if IDWR has a current list of artesian wells that are in need of plugging, reconstruction, or repairs. **Director Spackman** indicated that there are two inventories he could distribute to the Committee. One was originally conducted by CH2M Hill, an engineering company, and IDWR followed up that study with their own updated list.

Senator Mortimer inquired if any of those wells are of particular concern to IDWR at this time. **Director Spackman** advised there is one well in particular that is leaking in Owyhee County, and Oneida County has wells leaking for reasons unknown. Pressures are being lost because of those leaking artesian wells. On the other hand, IDWR has seen pressure recovery due to plugged or repaired wells in the Treasure Valley.

Senator Bair stated he was comfortable with the original piece of legislation. He was less comfortable with the draft amendment before him which adds back in the cost-sharing provision, providing that the Legislature appropriates the money to IDWR for cost-sharing. He wondered why Idaho would want to provide a benefit to a single, particular person. **Director Spackman** advised that some third parties felt that if there was a possibility of monetary appropriation in the future, the cost-share language should continue to be a part of the statute. He stated that in discussions with the Governor's office, the Statement of Purpose was rewritten to make sure this does not create the expectation that there will be funding. **Senator Bair** asked Director Spackman if he has the authority to order that a well be repaired. **Director Spackman** indicated that the statute does grant him that authority.

Sam Eaton, Policy Director and counsel for Governor Brad Little, was asked to comment on the position of the Governor regarding the added cost-share language. He advised the Governor's office did not propose the amendment, but is willing to work to appease everyone. They will support the decision of the Committee; however, they want to make sure this does not create the expectation that there will be funding.

Senator Guthrie commented that funds have already been committed to projects aimed at recharging the aquifer, and capping or repairing these artesian wells may fall under that category. He stated that leaving the cost-share language in the bill provides a future opportunity and would not be harmful.

Vice Chairman Brackett stated that it may be beneficial for the Committee to have more information in terms of artesian well inventory. He noted that the water users have not yet taken this before their legislative committee. It would be good to know the outcome of that, and perhaps a decision by the Committee should be delayed until that information is available.

MOTION: **Vice Chairman Brackett** moved to hold **S 1001** until the next meeting. **Senator Bair** seconded the motion.

DISCUSSION: **Mr. Spackman** indicated he will provide the Committee with information on existing inventories of Idaho's artesian wells. He further clarified that the Governor's office did not promote the inclusion of any language related to the cost-share.

VOICE VOTE: The motion to hold **S 1001** until the next meeting passed by **voice vote**.

DOCKET NO. 26-0120-1701 **Rules Governing the Administration of Parks and Recreation Areas and Facilities.** **Keith Hobbs**, Operations Administrator, Idaho Department of Parks and Recreation (Parks and Recreation), advised this proposed rule clarifies that in addition to paying the proper motor vehicle entrance and camping fee, one must also display proof of payment; failure to properly display proof may result in a surcharge assessment.

DISCUSSION: **Senator Guthrie** expressed concern that this rule may promote an atmosphere of non-payment, and may be punitive to the person who does pay, but does not display proof of payment. **Mr. Hobbs** explained that compliance efforts are primarily geared toward education and if the individual can show proof of payment, the compliance officer will be amenable to that. However, if the individual cannot show proof of payment they will be assessed the entrance fee of \$5 and the surcharge of \$10.

MOTION: **Senator Patrick** moved to approve **Docket No. 26-0120-1701**. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**, with **Senator Guthrie** and **Senator Johnson** requesting that they be recorded as voting nay.

**DOCKET NO.
26-0123-1701**

Rules Governing Filming Within Idaho State Parks. **Mr. Hobbs** informed the Committee that Parks and Recreation is authorized through statute to manage the production of commercial filming within Idaho state parks. The current rule was last updated in 1993 and is too restrictive to accommodate the changing needs of park visitors and park managers. This rule change defines commercial filming for which a permit is required. The change removes the permit requirement for the majority of photographers who only wish to collect images without interfering with the existing park operations. He stated filming for news purposes remains exempt from any permitting requirements.

DISCUSSION: **Senator Bair** asked if there is a fee schedule for commercial filming. **Mr. Hobbs** indicated there is no schedule. Parks and Recreation will typically charge a \$100 application fee and then negotiate a greater compensation, depending on the impact to park resources and the potential commercial gain the photographer stands to realize.

In response to further questions from the Committee, **Mr. Hobbs** advised that should an amateur photographer later use a park photo for distribution and gain, it is not the intent of Parks and Recreation to interfere with that opportunity. He further stated that park managers have the discretion to exempt Idaho Public Television and other non-profit organizations from permitting costs.

TESTIMONY: **Ryan Davidson** from Ada County spoke in opposition to **Docket No. 26-0123-1701**. He expressed his concern that the rule was not specific enough regarding those casual photographers using cell phone cameras and the potential liability should they later profit from a photo taken in the park.

Mr. Hobbs responded by pointing out the definition in the rule of exempt filming includes any filming or still photography which does not use sets, props, or models, or require on site management to protect park resources.

DISCUSSION: **Senator Guthrie** asked Mr. Hobbs how many permits were sold in the last year and how much revenue was collected. **Mr. Hobbs** advised there were approximately eight to ten commercial permits issued and each paid a \$100 application fee.

In response to further questions from the Committee, **Mr. Hobbs** advised that the proposed rule is much less restrictive to the casual photographer than the current rule and makes it easier for Parks and Recreation staff to enforce the rule.

MOTION: **Senator Mortimer** moved to approve **Docket No. 26-0123-1701**. **Senator Guthrie** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:24 p.m.

Senator Heider
Chair

Tyler Brock
Secretary

Lois Bencken
Assistant Secretary