

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 06, 2019

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and Buckner-Webb

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: **Chairwoman Lodge** called the Senate State Affairs Committee (Committee) to order at 8:04 a.m.

VOTE ON GUBERNATORIAL RE-APPOINTMENTS: **Vote on the Gubernatorial Re-appointment** of Jeffrey Anderson as Director of the Idaho Lottery and **Vote on the Gubernatorial Re-appointment** of Jeffrey Anderson as Director of the Idaho State Liquor Division.

MOTION: **Vice Chairman Harris** moved to send the Gubernatorial re-appointment of Jeffrey Anderson as Director of the Idaho Lottery to the floor with the recommendation that he be confirmed by the Senate. **Senator Souza** seconded the motion. The motion passed by **voice vote**.

MOTION: **Senator Stennett** moved to send the Gubernatorial re-appointment of Jeffrey Anderson as Director of the Idaho State Liquor Division to the floor with the recommendation that he be confirmed by the Senate. **Senator Souza** seconded the motion. The motion passed by **voice vote**.

GUBERNATORIAL RE-APPOINTMENTS: **The Gubernatorial Re-appointment** of Joe McNeal to the Idaho Commission on Human Rights (ICHR).

Mr. McNeal stated he came to Mountain Home Air Force Base in 1975, and has served as Mayor of Mountain Home, on the Mountain Home City Council, and in the Idaho Legislature. He is now retired, except for his current appointment by the Governor to the ICHR.

Senator Buckner-Webb commented that Mr. McNeal had been on the ICHR for a long time. She asked him what opportunities he sees as missing at the ICHR. **Mr. McNeal** said the only thing ICHR is missing is subpoena power, which would greatly help the staff. He deferred this question to Dr. Benjamine Earwicker, PHD, and Director of ICHR, for further clarification. **Dr. Earwicker** stated subpoena power would enable ICHR to be substantially equivalent to federal agencies under the housing law. This would reduce the federal footprint and give ICHR the authority to enforce certain contract actions.

Mr. McNeal stated that he wanted to thank Governor Otter for re-appointing him to this position. He commented that he takes the position seriously and it is one of the most important commissions the state has.

The Gubernatorial Re-appointment of Kevin Settles to the Idaho Commission on Human Rights (ICHR).

Mr. Settles stated he was with Bardenay Restaurants and Distilleries located in Boise, Eagle, and Coeur d' Alene. Through the years he has always been politically active and involved in issues related to his industry and ultimately, was appointed to the ICHR. This will be his third term on the ICHR. He stated it was a real honor to be able to represent the business community. The human rights issues that come before the ICHR are very complex and it has been a great learning experience, which he feels has allowed him to become a better employer.

Chairwoman Lodge asked if there was anything outstanding, new, or different he had seen as an opportunity for the ICHR. **Mr. Settles** said he has been impressed with the way new commissioners see things from different perspectives. There is great diversity and he expects it to continue to develop as the commission looks for opportunities to educate employers in the complexities of the law. There are opportunities for ICHR to be more effective, such as with the ability to subpoena. He believes employers and the ICHR are always changing for the better.

Chairwoman Lodge thanked Mr. McNeal and Mr. Settles for their service and said they would be voting at the next meeting.

RS 26482C1

STATING FINDINGS OF THE LEGISLATURE and honoring the American Legion in its centennial year.

Senator Don Cheatham, District 3, explained that **RS 26482C1** honors and commemorates the upcoming 100th anniversary of the American Legion, the largest Veterans' service organization in the United States. This patriotic Veterans' service organization was founded by American personnel in France. He stated there are more than two million members nationally, with approximately 10,000 members in Idaho. This organization has done numerous things to support service members. The American Legion is also dedicated to many programs benefiting youths.

MOTION:

Senator Winder moved to send **RS 26482C1** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 42

RELATING TO LABOR NEGOTIATIONS to provide that government labor negotiations adhere to open meeting laws.

Representative Steve Harris, from District 21, stated in 2013, the Idaho Education Association (IEA) brought legislation to require that all labor negotiations would occur in open session; this bill replaces the current sunset clause. **Representative Harris** said the Association of Idaho Cities (AIC), the Idaho State Fire Commissioners' Association (ISFCA), and the Fraternal Order of Police (FOP) are in favor of removing the sunset clause.

DISCUSSION:

Senator Winder said, according to a letter from the ISFCA (attachment 1), they are not supportive of this bill. He asked Representative Harris if he would address ISFCA's concerns. **Representative Harris** said ISFCA is in favor of removing the sunset clause, but they have an issue with lines 23 and 24 which state "all decisions regarding a labor contract offer or counteroffers are made in open session". **Representative Harris** said, from his point of view, this language just restates that labor negotiations need to occur in open session.

Senator Stennett asked why the additional language was added on lines 23-24 when it had not been agreed upon. **Representative Harris** referred to the edits on lines 17-19, which are important new edits. Section (a) falls under the area of holding executive sessions as seen in line 20. These two lines are not important and are redundant.

Senator Souza stated that lines 22-24 simply restate what is required under the open meeting law; executive sessions are for discussion and deliberation and any decisions are made in public. If this was all understood in the language of the original bill, why are they thinking this is a change, and were any other groups voicing similar concerns. **Representative Harris** explained that he became aware of these concerns on the day they presented **H 42** on the House floor. He reviewed their concerns on three separate occasions.

Senator Anthon asked if it wouldn't be a violation of the open meeting laws if a decision regarding a labor contract was not made in an open session. If a decision was made that was contrary to what is written into this statute, that would be a violation of the open meeting laws. **Representative Harris** agreed, this is a reiteration to make sure that was clear. The open meeting law did not apply to labor negotiations in the past. **Senator Anthon** said what is being described is covered under the open meeting laws, there is an exemption for labor negotiations. However, he was not sure whether or not, at the conclusion of labor negotiations, there is a requirement under open meeting law, to come out of those negotiations and have a vote in the open as to the decision made during those labor negotiations.

Senator Souza asked if this section of code is specific only to public labor negotiations for publicly connected, tax payer funded groups, or would this apply to a private business who has a union or some sort of representative group for their employees. **Representative Harris** responded that this is for public labor negotiations only. **H 42** specifically extends it out to fire and police.

Gary Rohwer, Fire Commissioner, Parma Rural Fire Protection District and Director at Large, Idaho Fire Commissioners Association (IFCA), addressed **H 42** and their concerns. He stated the current statute along with lifting the sunshine clause will continue to work well for them for a long time. They did not see the need for any changes. Their concern is with lines 22-24. **Mr. Rohwer** explained in greater detail about how it would affect wages, salaries, and current labor laws related to the employment of firefighters.

Senator Winder said that this bill doesn't say that disclosure of discussions occurring in executive session has to be made. It only says the decision has to be made in an open meeting. **Mr. Rohwer** read lines 23-24, "all decisions . . . are made in open session". **Senator Winder** said decisions cannot be made in executive session in current law. **Mr. Rohwer** stated they have no difficulty with the ability to be in executive sessions and determine what action to take as a concept then make the decision in an open meeting as a bargaining position. The problem is with "all decisions".

Senator Souza asked if Mr. Rohwer thought it would help to add into the new language "to provide all final decisions" be made by the ISFC. **Mr. Rohwer** responded that he believed it would. **Senator Souza** asked if the union has to follow this same protocol. **Mr. Rohwer** responded in the affirmative.

Senator Souza restated her question to Rob Shoplock. **Rob Shoplock**, representative for the Professional Firefighters of Idaho (PFFI), responded that the protocol is the same for both sides. **Mr. Shoplock** clarified that when the IFCA and the union negotiator caucus, they follow the same rules as stated in this statute.

Senator Anthon asked if the open meeting laws pertain only to public government bodies, not to non-profits or unions. **Mr. Shoplock** replied in the affirmative. **Senator Anthon** asked if, in this particular statute, it is about open negotiations with a governing body. **Mr. Shoplock** responded in the affirmative and explained the process in detail.

Senator Anthon stated there is no requirement for the union to make some of their decisions about their own negotiations, their counteroffers, or what they are going to decide to bring to the table at the open negotiation. He asked if this was not required to be done in public. **Mr. Shoplock** replied no, the proposals from the labor group would have to be made in public. He said they can tentatively agree on those decisions, but they cannot be made without the body ratifying them later.

Senator Stennett stated that her understanding was that both Mr. Rohwer and Mr. Shoplock were concerned about the language in the bill. She asked what language concerned them. **Mr. Shoplock** responded the PFFI does not have any objections or problems with this legislation and they think it does what it needs to do. The labor group and management could come to a tentative agreement, and in his opinion, they would go to executive session or would caucus on the tentative agreement. The PFFI likes the way this bill restates what happens in open meetings. **Senator Stennett** asked if this would be a change to how they currently operate. **Mr. Shoplock** replied that is the way they are operating now.

MOTION: **Senator Vick** moved to send **H 42** to the 14th Order of Business for possible amendment. **Vice Chairman Harris** seconded the motion.

Senator Vick agreed the redundant language is problematic and could have unintended consequences. He said it is better to remove that language and leave the rest of the language in place, and remove the sunset clause.

Senator Anthon stated he supports the motion, and feels the amendment will bring unity to what is trying to be accomplished.

Senator Winder stated there has not been a substantive argument that there is something wrong with **H 42**, the intent is very specific and, redundant or not, it brings clarity to the process. He would vote to send this bill to the floor as is.

The motion carried by **voice vote**. **Senator Winder** was recorded as voting **nay**.

H 72 **RELATING TO FINANCIAL MANAGEMENT** repealing a section of Idaho Code to remove the inactive Financial Management Technical Development Committee.

Alex Adams, Administrator, Division of Financial Management (DFM), explained that **H 72** would eliminate the Financial Management Technical Development Committee (FMTDC). Mr. Adams said he was reviewing the statutory responsibilities of his position and found that the FMTDC had not met in 14 years, and possibly had never met. After investigating this committee and what it was created for, he was told by Paul Headlee, Legislative Services Office, that a statute passed in 1995 created the FMTDC. He and Mr. Headlee decided the most appropriate course forward would be to eliminate this committee. **H 72** eliminates a committee that has not met since its inception and any duties it might have performed are being accomplished in other parts of the statutes.

MOTION: **Vice Chairman Harris** moved to send **H 72** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

HJM 3 **A JOINT MEMORIAL** to request the Federal Communications Commission to investigate and take steps to end the illegal harassment and disruption of our phone communications.

Senator Cheatham stated this memorial is a bipartisan effort between he and Representative John Gannon. He said it is not only a memorial, it also shows our support for Idaho Congressional leaders. This bill addresses scam phone calls. Nuisance calls have become a national issue. Part of the problem lies offshore and we need help from the Federal Communications Commission and other available federal resources to solve this problem. Once this issue is solved we need to address the ability to withstand repeated attacks.

Chairwoman Lodge gave examples of incidents that happened with family and others. **Senator Cheatham** also related an incident that occurred to him and said cyber security needs to become involved. Any wireless technology, computers, home phones, and cell phones can be affected by scams and other types of cyber theft.

MOTION:

Senator Souza moved to send **HJM 3** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

Senator Anthon thanked Commissioner Wayne Shank from Minidoka County for being at the meeting. **Senator Stennett** thanked Commissioner Roy Hubert from Lincoln County for attending the meeting.

ADJOURNED:

There being no further business, **Chairwoman Lodge** adjourned the meeting at 9:01 a.m.

Senator Lodge, Chair

Twyla Melton, Secretary

Assisted by Carol Waldrip