

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 04, 2019

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, 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 Heider** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Mortimer** moved to approve the Minutes of January 21st, 2019. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

S 1056 **Vice Chairman Brackett** moved to reconsider **S 1056**. **Senator Bair** seconded the motion. The motion was carried by **voice vote**.

MOTION: **Senator Bair** moved to send **S 1056** to the 14th Order of Business for possible amendment. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.

S 1050 **Vice Chairman Brackett** stated **S 1050** clarifies Idaho Code in relation to the exemption requirement to obtain a water right for the use of groundwater for the purposes of firefighting. **Vice Chairman Brackett** ensured that this legislation provides clarity and protection of persons and property is the foremost priority in situations involving damaging fires.

DISCUSSION: **Senator Mortimer** asked if there were any examples where groundwater use has been used to fight fires or if this is a preemptive measure. **Vice Chairman Brackett** responded that he does not have a good answer for this question, but he believes **S 1050** clarifies that all of this is permissible.

Senator Stennett asked who needs permission to divert groundwater off of their land. **Vice Chairman Brackett** stated that there is not a clear answer, but this bill speaks to fight fires on public lands via private property. To further answer the question, **Vice Chairman Brackett** yielded his microphone to Brian Patton of the Idaho Department of Water Resources (IDWR). **Mr. Patton** stated that this bill is silent on permission and access. In case of fires, it allows firefighters to pull water out of a well just like they can pull water out of a surface water stream.

MOTION: **Senator Mortimer** moved to send **S 1050** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1087 **Vice Chairman Brackett** stated that **S 1087** removes outdated language in Idaho Code § 42-607, while maintaining the option for the Director of the IDWR to implement a cost share program. The statute will continue to recognize that owners of artesian wells have the responsibility for repairing and plugging their wells.

TESTIMONY: **Braden Jensen** of the Idaho Farm Bureau testified in favor of **S 1087**, particularly for the collaboration between the parties that helped draft this legislation.

- MOTION:** **Senator Guthrie** moved to send **S 1087** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.
- S 1089** **Senator Martin** and **Brian Brooks**, Idaho Wildlife Federation, presented **S 1089**. **Senator Martin** started out his presentation by discussing the volume of Facebook traffic he receives on stories about people blocking public roads and trails. He also noted an error within the bill itself, and wished for a recommendation to send the bill to the 14th Order for revision. **Mr. Brooks** stated the intent of this legislation is to allow a civil suit remedy for people who intentionally block public land access. This legislation offers civil remedies to conduct that which is already illegal, and this legislation does not contain any constitutional concerns or new right of entry claims on private lands.
- DISCUSSION:** **Senator Stennett** asked how many times Idaho Code § 36-1603(b) had been cited and wished to know of all the stakeholders that worked on this legislation. **Mr. Brooks** responded that they found one instance of a successful conviction and that conviction only came after a sting operation. **Mr. Brooks** further stated that they worked with real estate and road lawyers, motorized groups, hunting and angling groups, rock climbers, kayakers, and with farmers and ranchers.
- Senator Mortimer** asked about the process of tripled damages and asked for the distinction between any prosecution or litigation in this portion of statute versus civil code. **Mr. Brooks** responded the bill allows for a swifter justice by allowing the general public to take these complaints like they have with private property trespass.
- Vice Chairman Brackett** addressed concerns he had with the legislation and asked Mr. Brooks if there was more information he could provide. **Mr. Brooks** stated the intent of this legislation is to go after flagrant access violations. However, **Mr. Brooks** understands that there are rock outcrops and marshes that fences cannot build around.
- TESTIMONY:** **Michael Gibson**, Idaho Trout Unlimited; **Forrest Goodrum**, Legislative Director of the Idaho Wildlife Federation; and **Larry Callester** spoke in favor of **S 1089**.
- Sharon Kiefer**, Idaho Department of Fish and Game (IDFG), stated their neutrality, and that they were simply there to monitor **S 1089**.
- DISCUSSION:** **Senator Bair** asked if IDFG was a stakeholder in the drafting process for this legislation. **Ms. Kiefer** stated she was not aware of IDFG being contacted during the drafting of **S 1089**.
- TESTIMONY:** **Russ Hendricks**, Idaho Farm Bureau; **Wyatt Prescott**, Idaho Cattle Association; and **Gary Allen**, attorney for DF Development, spoke in opposition to **S 1089**.
- MOTION:** **Senator Jordan** moved to send **S 1089** to the 14th Order of Business for possible amendment. **Senator Stennett** seconded the motion. The motion failed.
- MOTION:** **Senator Bair** moved to hold **S 1089** in Committee. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Heider** adjourned the meeting at 3:03.

Senator Heider
Chair

Tyler Brock
Secretary