

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 11, 2019
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and Mathias (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 8:12 a.m.

VOTE ON GUBERNATORIAL APPOINTMENT: **Chairwoman Lodge** thanked everyone for their patience as the meeting was moved from the regular Committee room to the Lincoln Auditorium.
MOTION: **THE GUBERNATORIAL APPOINTMENT** of Jeff Weak as the Administrator of Information Technology Services.

RS 27085 **MOTION:** **Senator Winder** moved to send the Gubernatorial re-appointment of Jeff Weak as Administrator of Information Technology Services to the floor with the recommendation that he be confirmed by the Senate. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 158 **MOTION:** **UNANIMOUS CONSENT REQUEST** from the Senate Education Committee regarding the Public School Funding Formula.
TESTIMONY: **Senator Hill** moved to send **RS 27085** to print. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**.
MOTION: **RELATING TO HOMEOWNER'S ASSOCIATIONS** in relation to solar panels. **Representative Ilana Rubel**, District 18, and **Representative Randy Armstrong**, District 28, presented **H 158**, which balances homeowner property interests and Homeowner Association (HOA) interests in utilizing solar panels. The representatives fielded questions regarding HOA member covenants and the government's role in regulating those covenants.

MOTION: **Kevin King**, representing the Clean Energy Association; **Brindey Collins**, representing the Community Association Institute; **Emily Reeves**, President of a local HOA; and **Eric Jackson**, President of an HOA in Nampa, gave testimony in support of **H 158**. Their concerns covered difficulties in obtaining solar panels in HOA neighborhoods, voting power of HOA residents, the binding relationship of covenants, and the difficulties in the covenant amendment process.
MOTION: **Senator Stennett** moved to send **H 158** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

- DISCUSSION:** Senator Hill offered some concluding thoughts. The next time someone doesn't like a provision in the covenants for a HOA and wants to have it changed, they will come to the state with a request about what they can or cannot do; **H 158** will be used. He recommended that the HOAs get together and find a way the covenants can be changed without going through such a laborious process. Also, the way the covenants are enforced would help avoid this problem in the future. Senator Hill said he will be supporting the bill.
- VOICE VOTE:** The motion carried by **voice vote**.
- S 1179**
- RELATING TO ALCOHOL** to provide an exception for movie theaters in a resort city.
- Mark Estess**, Partner at Eiguren Ellis Public Policy, presented **S 1179** and described 14 resort cities that would be affected. The purpose of **S 1179** is to allow resort community theaters, some of which are historic, the same economic considerations as younger theaters. He fielded questions from Senator Souza regarding the intent of the bill to distinguish resort communities that are allowed to have these theaters from any other community and theater; what was the original intent and should it be continued. **Mr. Estess** responded that resort cities have unique elements that involve a seasonal influx of people. To change current law would demand decisions from the legislative bodies.
- MOTION:** Senator Stennett moved to send **S 1179** to the floor with a **do pass** recommendation. Senator Buckner-Webb seconded the motion. The motion passed by **voice vote**. Vice Chairman Harris and Senator Hill requested to be recorded as voting nay.
- S 1160**
- RELATING TO ALCOHOL** to create new categories of licenses for eating establishments and lodging facilities, and removes barriers to economic development.
- Senator Jim Rice**, District 10, informed the Committee that **S 1160** is a redraft of **S 1140** and creates two new categories of liquor licenses; lodging facilities and eating establishments. The new licenses would not be transferable and there would be an amount restriction. To preserve the value of the licenses, transferring a license in the same city is not allowed for two years. Problems with the number of license quotas in certain areas impeded economic development and prompted the drafting of **S 1160**. This would adjust the code so that it is clear which are quota licenses and which are specialty licenses; the two new categories would fall under specialty licenses. Senator Rice described in detail what the changes were from the earlier bill that had been heard in Committee earlier in the session.
- DISCUSSION:** Senator Stennett stated her concerns about the legacy licenses; what happens to them, are they devalued, and will there be some sort of compensation for them. Senator Rice responded that they get a 10 percent discount on the liquor purchased from the state dispensary. He stated that the primary value is the use of the license, not the scarcity of it. Bars and nightclubs will have the quota licenses and may be of more value. The difference in the 10 percent discount will be offset by the change in selection.
- Senator Vick stated his concern with a city council's ability to approve or reject a license application and asked if cities have guidelines to alleviate the chance of favoritism. Senator Rice responded this bill doesn't change what currently happens. If there is no basis for the choice of one establishment over another, the city may have a problem. Some cities do not allow liquor at all. Senator Vick inquired about freezing the quota licenses and putting no limit on

the new licenses. **Senator Rice** explained that there is a difference between a restaurant serving liquor and a bar serving liquor; there are fewer problems.

Chairwoman Lodge announced that those who would be testifying would be limited to two minutes.

TESTIMONY:

The following people spoke in opposition to **S 1160: Christy Suciu**, Flynn's Restaurant; **Rod Nielsen**, McCall, ID; **Dr. Roger Wood**; **Russell Westerburg**, Idaho License Beverage Association; **Dave Kirsch**, Manager, Red Feather; and **Joe DeBoard**, Jakers. Their concerns consisted of the following issues: a stance for temperance, a desire for lower outlet density, and more time for the community to consider the implications. A criticism that the bill was tailored for franchises and a concern that the bill would drastically reduce the market value of small Idaho businesses were expressed.

The following people spoke in support of **S 1160**. **Mark Grubert**, Spring Creek; **Ted Challenger**, Alcohol Lenders Group; **Jeffrey Beddy**, Spring Creek; and **Jerry Chou**, restaurant owner. They believed it would allow small companies to compete fairly in the market; liquor makes up a large percentage of restaurant revenue. Concern for restaurants buying and selling their licenses was considered. The Committee was asked to consider a 15 percent discount rather than 10 percent to prevent companies from earning a profit off the sale of licenses.

DISCUSSION:

Senator Rice responded to Senator Stennett's question regarding the 10 percent discount. He said the Idaho State Liquor Division expects there will not be a great deal of change. There will be more specialty licenses issued and those get no discounts; the quota licenses will be either 10 percent or other specialty licenses, which will be 5 percent. The additional economic activity will increase revenues. **Senator Rice** pointed to the Constitutional requirement, which is the promotion of temperance and morality.

Senator Rice closed his presentation of **H 1160** stating this legislation would ultimately limit the number of bars in the state, and it doesn't remove or eliminate bars; it provides additional training to all servers; there won't be a flood of licenses; economics puts a cap on businesses; Alcohol Beverage Control will continue to enforce; and law enforcement will provide the needed protection. There will be a significant number of licenses that are available for use for bars and nightclubs, not just now but in the future.

MOTION:

Senator Souza moved to send **S 1160** to the floor with a **do pass** recommendation. The motion failed due to lack of a second.

DISCUSSION:

Senator Winder commented that he would ask the Speaker of the House and the President Pro Tempore to put a working group together to pursue this issue. He volunteered to participate and commended Senator Rice for his efforts.

Senator Anthon agreed that there is a problem. There are certain communities in Idaho where economic growth is stymied and where tourists are gathering. Chain restaurants won't pursue those areas because they can only obtain a liquor license by paying large amounts of money or waiting in a 10-15 year line. This is an issue but there has been some good work done and he thanked Senator Rice for his effort.

Senator Souza argued that the quota (legacy) licenses need to be honored and have their place in the future. She believed small restaurants and businesses had trouble starting their ventures and agreed that a working group was in order and necessary.

Chairwoman Lodge added that she was part of a working group to address this issue ten years ago. They did get some answers and that bill failed by one vote. The issue has yet to be resolved, and it has only become larger. She extended her thanks to Senator Rice. She agreed with Senator Winder that a working group is necessary.

Senator Hill said that, if a working group is organized, there are people who felt they had not been at the table. He asked them to contact the Committee and ask to be included in that group.

S 1159

RELATING TO INITIATIVES & REFERENDUMS to increase voter involvement in the initiative/referendum process.

Senator C. Scott Grow, District 14, stated that **S 1159** was not an attack against the Medicaid voter initiative. He diffused connections to Medicaid expansion and commended all who had worked tirelessly to get that initiative on the ballot. He assured everyone that **S 1159** would not affect Medicaid expansion in any way. **Senator Grow** provided general information about the initiative process; it isn't available at the federal level, and Idaho is one out of 23 states in the union that allows initiatives and referendums on the ballot.

Senator Grow explained the bill page by page and discussed the following changes: to make the bill more transparent, clear, and consistent with the Legislature; the initiative would follow the single subject rule; it would have a fiscal impact statement and a suggested funding source; and it would be effective on July 1, 2019, following its passage. The changes that would improve signature participation were: there would be 180 days to collect the signatures; and it would require 10 percent of registered voters from 32 legislative districts. **Senator Grow** said there would be no changes made as to the requirement for passage of an initiative in the general election. All it needs is a simple majority of 50 percent plus 1 vote.

DISCUSSION:

Senator Stennett questioned the need to change the status quo when there hasn't been a large demand for initiatives and referendums for over a century. **Senator Grow** stated the trend nationally is more and more initiatives appearing on the ballot. The intent of **S 1159** was to have a good balance in place between the laws the legislature passes and the rights of the citizens to bring forward initiatives if that starts to happen in Idaho. **Senator Stennett** asked if other states had all the requirements that are in this bill. **Senator Grow** responded that many do have these same requirements and other states are passing legislation relative to initiatives. **Senator Stennett** referred to the fiscal note that included additional staff to help county clerks yet they didn't have extra resources. In addition, her concern was that the confirmation of signatures would be impossible within the shorter time frame. She asked who would be at fault for not meeting the deadline if those gathering signatures were successful but the signatures could not be verified in a timely manner. **Senator Grow** replied that the bill does not change the time the clerks are asked to certify the ballots; it is still 60 days.

Vice Chairman Harris asked why the bill requires 32 instead of all 35 legislative districts. **Senator Grow** stated that some states require 100 percent and he considered this as it would be his preference. But this gave some latitude short of 100 percent.

Senator Anthon asked for clarification about whether or not the bill changes the number of votes an initiative on the ballot would need to pass. **Senator Grow** said that current law is 50 percent plus one vote and that won't change; Prop 2 passed by approximately 61 percent.

- TESTIMONY:** **Luke Mayville, Yvonne Sandmeyer, and Tracy Olson** of Reclaim Idaho, explained their experience gathering signatures and argued that the difficult process already deters most initiatives.
- Fred Birnbaum**, Idaho Freedom Foundation, testified in support of **S 1159** and expressed concern about the donations used to obtain signatures.
- Russ Hendricks**, Idaho Farm Bureau, expressed his approval for **S 1159**.
- A.J. Balukov** spoke against **S 1159** and described his participation in two previous propositions. He argued that increasing the number of counties and the voter percentage requirement would make it difficult if not impossible for grass roots movements.
- DISCUSSION:** **Senator Souza** asked Mr. Balukov if he was in favor of the fiscal statement proposed in **S 1159**. **Mr. Balukov** believed the provision would be helpful bringing the initiative process into conformity with the normal legislative process.
- RECORDING LINK:** For the full discussion of the testimonies for **S 1159**, go to: (http://164.165.67.41/IIS/2019/Senate/Committee/State%20Affairs/190311_ssta_0800AM-Meeting)
- Chairwoman Lodge** announced that, due to time constraints, the hearing for **S 1159** will continue on Friday, March 15th.
- ADJOURNED:** **Chairwoman Lodge** adjourned the meeting at 11:13 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary

Assisted by Bryce DeLay