

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 13, 2019

TIME: 1:00 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Guthrie

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 1:00 p.m.

H 192 **Jeremy Pisca**, Idaho Outfitters and Guides Association, stated this legislation updates statutes governing the nonresident set-aside and tag allocation system administered by the Idaho Department of Fish and Game (IDFG) in conjunction with the Idaho Outfitters and Guides Licensing Board (Board), such that it accurately and fully captures actual outfitted use, reflects current trends in hunter demand, and provides more dependable access for the public to outfitted tags. This legislation directs the IDFG Commission to establish the number of nonresident elk and deer tags to set aside for outfitter use when setting big game seasons and implement a new formula for determining an outfitter's historic use. This legislation also directs the Board to designate the tags set aside in capped or controlled zones in a more fair and equitable manner and to report these designations to IDFG for distribution.

TESTIMONY: **Sharon Kiefer**, Deputy Director of IDFG, indicated their neutrality towards **H 192** and stated IDFG's intention was to monitor the bill.

DISCUSSION: **Chairman Heider** asked if it was the responsibility of the outfitter to notify IDFG if someone uses their own tag versus letting IDFG know how many tags they didn't receive that were used by individuals. **Ms. Kiefer** responded that the technicality part is something IDFG needs to know, as the individual and the specific tag that is used is something the outfitter needs to be able to properly record. For outfitters, IDFG sets aside allocated tags and requires that they don't sell that tag until someone shows up at their door with the outfit or voucher.

Senator Bair asked how IDFG knows where to collect the \$20 administrative tag fee, where it is assessed, and who collects it. **Ms. Kiefer** responded that the fee is an assessment on the back end. When the outfitter brings IDFG the report and says they need these tags recorded against their use, the person then pays the fee because the outfitters charge that individual the fee up front as part of their outfit or contract.

Senator Stennett asked if IDFG has the resources they need to adhere to **H 192**. **Ms. Kiefer** responded that IDFG believes they have the resources in place even though they do not have the funds from the new administrative fee revenue.

MOTION: **Vice Chairman Brackett** moved to send **H 192** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

Because Vice Chairman Brackett and Benjamin Davenport had to present legislation in front of the House Conservation and Resources committee, **H 141** was moved ahead of **H 207**.

H 141

Benjamin Davenport, Idaho Mining Association (Association), stated the Surface Mining Act was enacted in 1971 with the purpose of protecting taxpayers and Idaho lands by providing for reclamation activities and reclamation bonds for lands disturbed by surface mining activities in the state. **H 141** proposes changes that more accurately reflect current industry and regulatory practices. The legislation also includes updating financial assurance methods, requiring financial assurance for reclamation and long-term post closure management activities, requiring reclamation plan and financial assurance reviews, and ensuring that there will be no duplication in financial assurances between government agencies. Finally, the legislation includes the ability for the Department of Lands to require reasonable fees to pay for any additional workload associated with the proposed changes.

DISCUSSION:

Senator Jordan asked why the Association changed the language from, "he shall" to "he may" notify the board about mine closures. **Mr. Davenport** responded that they have given the discretion to the operator when they want to apply for release of their bonds.

Senator Jordan asked if the word "substantially" was changed for the same reasons. **Mr. Davenport** referred to Alan Prouty, President of the Association to answer this question. **Mr. Prouty** responded that if a mine operator has "substantially completed reclamation", at that point the operator can make an application to the Department of Lands for release of those bonds. The word substantial is to imply that work needs to be either complete or near completion.

Senator Jordan asked how the State guarantees that there are not other beneficiaries that might have a place in front of the State. **Mr. Prouty** responded the State Board of Land Commissioners has the final say for what the financial assurance mechanisms are and what that financial assurance package looks like.

Senator Johnson asked if the corporate guarantees adjust for inflation. **Mr. Davenport** responded the dollar amount is for the full financial assurance package and that will be determined by actual cost estimates. **Mr. Davenport** provided an example in Nevada where they have a tool that measures actual cost estimates, and that is something the industry is very comfortable with. **Mr. Davenport** further stated the conservation and regulatory communities are very comfortable with the changes made in **H 141** and they are comfortable with the changes when it comes to the percentages of the financial insurance packages that are attributed to a corporate guarantee.

Senator Johnson asked what happens to the corporate guarantees when the company goes bankrupt. **Mr. Davenport** stated currently, when a company goes bankrupt and they have a corporate guarantee in place the promise that the person received is the promise that will enter the bankruptcy process. **Mr. Davenport** stated the Association wants to make sure that there are sideboards in place that do not allow people to supply a corporate guarantee. The Association also proposes that they do not allow corporate guarantees on post closure projects, only on active reclamation projects.

Senator Stennett asked what happens to mines when they file bankruptcy, and what the recourse is for those locations and sites. **Mr. Davenport** responded it's important to recognize that the landlord still has discretion on whether or not they accept a corporate guarantee. **Mr. Davenport** believes it's important to recognize that twenty other states allow for corporate guarantees and the Environmental Protection Agency and the Idaho Department of Environment Quality allow for corporate guarantees.

TESTIMONY: **Michael Gibson**, Idaho Trout Unlimited, spoke against **H 141** due to the statute's corporate guarantees.

Jon Oppenheimer, Idaho Conservation League, spoke against **H 41** due to the corporate guarantees and wished for the bill to go to the amending order.

Senator Johnson asked Kevin Beaton, attorney for the Association, on why the word "foreseeable" was left in line 19 of the bill and not line 24. **Mr. Beaton** stated these changes to remove the references to the source were made just to describe the management of water and to protect the quality of both surface and groundwater. **Mr. Beaton** stated in some respects this is one of the significant pieces of the bill because it expands the impacts that the mining industry is required to provide financial assurance for. **Mr. Beaton** believes the reason that deletion of the second foreseeable was because it was not necessary, as it was addressed in the previous subsection.

MOTION: **Senator Mortimer** moved to send **H 141** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

H 207 **Norm Semanko**, Valencia Wetlands Trust, stated this legislation adds a new chapter, Chapter 93, to Title 67 of Idaho Code to promote the availability of all types of compensatory mitigation for project impacts to wetlands, consistent with the federal 2008 Mitigation Rule.

MOTION: **Senator Johnson** moved to send **H 207** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:04 p.m.

Senator Heider
Chair

Tyler Brock
Secretary