

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 15, 2019

TIME: 8:00 A.M.

PLACE: LINCOLN AUDITORIUM

MEMBERS PRESENT: Chairwoman 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 8:06 a.m.

VOTE ON GUBERNATORIAL APPOINTMENT: **VOTE ON GUBERNATORIAL APPOINTMENT** of Russell A. Ludlow to the Bingo-Raffle Advisory Board.

MOTION: **Senator Winder** moved to send the Gubernatorial appointment of Russell A. Ludlow to the Bingo-Raffle Advisory Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

RS 27110 **A CONCURRENT RESOLUTION** to appoint a committee to study the methodology for funding public school construction and maintenance.

MOTION: **Senator Hill** moved to send **RS 27110** to print. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**.

S 1159 **RELATING TO INITIATIVES AND REFERENDUMS CONTINUED**

Chairwoman Lodge set out instructions about how the remainder of the meeting will proceed.

Senator Stennett asked if there would be an opportunity for more questions to the sponsor. **Chairwoman Lodge** responded in the affirmative. **Senator Winder** said that there should be time to answer questions after testimonies are given. **Chairwoman Lodge** allowed Senator Stennett some latitude to ask two short questions.

Senator Scott Grow, District 14, stood to answer questions. **Senator Stennett** asked if the time required to go before the Secretary of State (SOS) and the Department of Financial Management (DFM) will be part of the 180 days set aside to gather signatures. **Senator Grow** said it should not cut into the 180 days and it provides the citizenry with accurate information but is not binding. **Senator Stennett** asked if resources would be supplied to assist the clerks in verifying both county and legislative districts. **Senator Grow** responded that in discussions with the Association of Counties and some clerks, there is not an issue although, in some locations, it could be a challenge.

Senator Winder stated the signer must be a registered voter and they would have to know what district they are in. **Chairwoman Lodge** added that was a U.S. Ninth Circuit Court ruling.

TESTIMONY:

The following people spoke in support of **S 1159**:

- **Benjamin Kelly** representing Food Producers of Idaho.
- **Steve Millington**, Twin Falls, ID, Chair of the Twin Falls County Republican Committee.

The reasons they supported the bill: there will be more rural involvement; the next redistricting process will shift more district representation to urban centers and away from rural communities; two counties comprise 13 legislative districts and after the 2020 redistricting, it could be 16 or 17.

Chairwoman Lodge ask if Mr. Millington was aware of how technology affects these efforts. **Mr. Millington** stated he was not. However, the way the lists are accumulated is not nearly as demanding as it was in the past and has reduced the time requirements to get an initiative done.

The following people spoke in opposition to **S 1159**:

- **Rebecca Schroeder**, Coeur d'alene, Idaho, Reclaim Idaho.
- **Don Kemper**, spoke on his own behalf.
- **Rialin Flores**, Program Director, Conservation Voters for Idaho.
- **Mary McLaughlin**, Boise, Idaho.
- **Tina Hilding**, Moscow, ID, volunteer.
- **Chris Stroh**, Boise, ID, was the acting notary and collected the signed petitions.
- **Carmel Crock**.
- **Ken Harris**, , Boise, ID.
- **Jim Hansen**, representing himself and family.
- **Chip Cole**, Boise, ID.
- **Carl Isaksen**, Boise, ID.
- **Joe Goode**, volunteer.
- **Shawn Keenan**, Coeur d'alene, ID, collected signatures.
- **Brenda Foster**, Boise, ID.
- **Donna Yule**, President, SW Idaho Chapter of the National Organization for Women.
- **John Glick**, McCall, ID, Co-Chair, Valley County Medicaid Expansion Initiative.
- **Dena Duncan**, Boise, ID.
- **Kay Hummel**, Boise, ID.
- **Lori Obe**, Boise, ID.
- **Rita Sherman**, Garden City, ID.
- **Cynthia Brooke**, Middleton, ID.
- **Gail Kirkpatrick**, Boise, ID.
- **Ashley Prince**, Field Director, Reclaim Idaho.
- **Roberta D'Amico**, Boise, ID.
- **Dave Gregor**, Boise, ID.

- **Diane Jensen**, Meridian, ID.
- **Jeff Fereday**, Boise, ID.
- **Jean Weingartner**, Boise, ID.
- **Tom Weingartner**, Boise, ID.
- **Nancy Harris**.
- **Scott McDougall**, Boise, ID.
- **Don Shaff**, Boise, ID.
- **Misty Tolman**, Idaho State Director, Planned Parenthood.
- **Alexander Grad**, citizen.
- **Forrest Goodrum**, Boise, ID.
- **Professor Gary Moncrief**.
- **Kathy Griesmeyer**, Policy Director, ACLU.
- **Tex Beaucham**, Meridian, ID.
- **Sarah Taevs**, Boise, ID.
- **Rod Beck**, Citizens in Charge.
- **Terri Sterling**, Culdesac, ID.
- **Ellen Spencer**, Eagle, ID.
- **Katie Fite**, Boise, ID.
- **Russell Bushert**, Eagle, ID.
- **Lee Ann Tysseling**, Boise, ID.
- **Carol Richel**, Eagle, ID.
- **Janet Mollerup**, Boise, ID.
- **Danniba Luberg**, Boise, ID.
- **Holli Woodings**, Boise, ID.
- **Cindy Mueller**, Middleton, ID. for Todd Achille, Ketchum, ID. He was here on Monday and couldn't come back.
- **Jeannette Bowman**, Boise, ID.
- **Laura Tirrell**, Boise, ID.
- **David Ransen**, Boise, ID.
- **Jonathan Oppenheimer**, Idaho Conservation League.
- **Louise Seeley**, Boise, ID.

Those who left written testimony in opposition to **S 1159** when time ran out:

- **Jane Rohling**, Eagle, ID.
- **Roxanne Wigglesworth**, Boise, ID.
- **Chuck Chappell**, Boise, ID.
- **Mark Altekruse**, Boise, ID.

- **Todd Achilles**, Ketchum, ID.
- **William Brudenell**, Boise, ID.

The reasons they opposed the bill: many reported their experience in gathering signatures was difficult; some agree qualifying an initiative should be hard and it is; concern about the stories they heard from people about lack of medical care; they contacted many rural citizens; many said this bill put difficult restrictions on citizens; some provided statistics; the combination of all the changes makes qualifying an initiative impossible; concerns about the deadline defined for the fiscal impact statement; **S 1159** is vulnerable to legal challenge; training volunteers resulted in more qualified signatures; will be hurting the authenticity of grassroots campaigns; number of hours spent by volunteers; volunteers worked hard and received no pay or compensation for expenses; it violates the first amendment; this bill will make Idaho the toughest state in the union to get an initiative on the ballot; people don't know their legislative district; it is up to the appropriations committee to find the money in the budget; they gave examples of what invalidates signatures; if this bill passes, Idahoans would not be able to act on issues that elected officials might ignore or are not able to solve; rural districts are already advantaged and this bill would increase that advantage; we should be addressing actual problems such as healthcare, roads, etc.; there are reasons to protect this right; Idahoans have been very judicious in their use of the initiative process (for some speaking notes see attachment 1).

Written testimony submitted to the Committee in lieu of attendance (see attachment 2):

- Mark Altekruze wrote in opposition to **S 1159**.
- Bryan Searle, President, Idaho Farm Bureau Federation, letter dated March 15, 2019, wrote in support of **S 1159**.

DISCUSSION:

Senator Buckner-Webb asked Ms. Schroeder if there were any reasonable changes she would consider. **Ms. Schoreder** responded that the stakeholders would like an opportunity to come to the table for discussions. She indicated that it would be helpful to have a fiscal note.

Senator Stennett asked Ms. Stroh if she had concerns about the ability of the clerks to take on a greater load in a shorter period of time. **Ms. Stroh** answered in the affirmative. With the last initiative, the petitions did not get to the clerks until about two weeks before they had to be taken to the SOS office; it was rushed and difficult.

Senator Buckner-Web asked Ms. Stroh about the reasons that signatures were deemed invalid. **Ms. Stroh** answered that peoples' signatures vary; if the signature on the petition does not match the signature on the registration form, it is invalid. Others are incorrect addresses and/or phone numbers.

Senator Stennett asked Ms. Prince, if a county is split into more than one district, will there be an effect on validations. **Ms. Prince** replied that it drops the validation rate. The petition signature is invalid if it is on the wrong petition.

Senator Vick asked Professor Moncrief to confirm that if this bill passes, no signatures would have to be collected in Districts 19 or 14. **Professor Moncrief** concurred.

Senator Stennett inquired if, with the influx of people in certain areas, along with the new redistricting, districts will be lopsided. **Professor Moncrief** stated his belief that this bill focuses on registered voters and it is assumed registered voters and population are similar. At the beginning of a redistricting cycle they are; however, at the end of the cycle those numbers are very different.

Senator Anthon asked Professor Moncrief what he would propose that would be a better way to gather signatures in any particular district. **Professor Moncrief** did not have an answer. He stated his belief that the problem is, we are at the end of the redistricting cycle.

Senator Winder noted that Professor Moncrief has made a lot of presentations around the country but this is the first time he has heard him testify for or against something. **Professor Moncrief** agreed, he doesn't view that as his roll. However, he feels very strongly that this is not what we should be doing at this point.

Chairwoman Lodge asked if Professor Moncrief had information about the ways qualifying an initiative has changed with the advent of technology. **Professor Moncrief** did not have that information but could find it.

Senator Stennett pursued the thought that if the initiative process is tightened, more paid companies will be able to get initiatives on the ballot and then those things would not really be the voice of the people. **Professor Moncrief** agreed.

CONCLUSION:

Senator Grow discussed some of the court cases that have influenced the initiative process. He referred to Ms. Griesmeyer's comment regarding Colorado law. However, she failed to mention that, upon appeal, that case was overturned by the U.S. 10th District Circuit Court and the injunction was lifted. **Senator Grow** went on to explain that Idaho's current law is based on *Idaho Coalition for Bears United vs Cenarrusa* and that is why we now have legislative districts. The court found that requiring signatures be gathered based upon county distribution was unconstitutional based on the one man one vote rationale. They specifically stated that requiring signature distribution based upon legislative districts was entirely appropriate.

Senator Grow outlined the legislature's responsibility relative to initiatives as it appears in Article 3, Section 1 of the Idaho State Constitution that states in part: The people reserved to themselves the power to propose laws and enact the same at the polls independent of the legislature; this power is known as the initiative. Legal voters may, under such conditions and in such manner as provided by acts of the legislature, initiate any desired legislation and cause the same to be submitted to the vote of the people at a general election for approval or rejection. **Senator Grow** explained that in 1933, the percent of voters was set at 10 percent.

Senator Grow set forth some bullet points outlining the elements contained in **S 1159**:

- There is a single subject requirement.
- A fiscal note will be included.
- A funding source is required although it is not binding.
- There is a signature collection timeframe requirement.
- Signatures must come from 32 districts rather than 18.
- The threshold for achievement of the requirement for signatures is 10 percent.

Senator Grow stated that differing opinions have been heard today and that the legislature has a constitutional duty to deal with this issue. He stated his appreciation to the Committee and those who testified.

DISCUSSION:

Senator Buckner-Webb asked if the county clerks had been contacted about the additional resources that would be needed. **Senator Grow** responded in the affirmative. He stated he had contacted the Association of Counties to determine

what should be in the fiscal note. He was not able to contact each county so he went to the group as a whole to determine what would be reasonable. The additional signatures would probably require additional time and they may have to add personnel to carry the work load. The SOS did not anticipate any additional cost. **Senator Buckner-Webb** asked for a definition of "long term fiscal impact." **Senator Grow** responded that Proposition 2 is now the law of the state and that is long term. **Senator Buckner-Webb** and **Senator Grow** discussed the Colorado court case and where it stood today.

Senator Stennett referred to page 2, lines 41-42, and asked, if the clerks who are allowed 60 calendar days to complete their work after the submission of the signatures cannot get it done in the allotted time, would that cause the failure of the initiative process. **Senator Grow** replied the 60 days is in current law but his reference was that more signatures would need to be verified and that will take more work. He said that is what he was referring to when he talked about additional help for county clerks.

Senator Stennett inquired about the cost to the DFM for the free services that are being offered to those pursuing the initiative process. **Senator Grow** answered that is an unknown since it depends on what the initiative is about. **Senator Stennett** and **Senator Grow** discussed the need for an emergency clause.

MOTION: **Senator Winder** moved to close the public hearing and hold **S 1159** in Committee to be brought back at the discretion of the Chair. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairwoman Lodge** adjourned the meeting at 11:15 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary