

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, January 26, 2021

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Riggs, Senators Heider, Lee, Harris, Agenbroad, Zito, Stennett, and Wintrow

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 Martin** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:00 p.m.

GUBERNATORIAL REAPPOINTMENT: **Chairman Martin** called for the vote on the gubernatorial reappointment of Sue Walker to the Commission for the Blind and Visually Impaired.

MOTION: **Senator Heider** moved to send the gubernatorial reappointment of Ms. Walker to the floor with the recommendation that she be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. **Senator Zito** requested that she be recorded as voting nay.

GUBERNATORIAL REAPPOINTMENT: **Chairman Martin** called for the vote on the gubernatorial reappointment of Dr. Timothy Rarick to the Board of Health and Welfare.

MOTION: **Senator Heider** moved to send the gubernatorial reappointment of Dr. Rarick to the floor with recommendation that he be confirmed by the Senate. **Senator Zito** seconded the motion.

DISCUSSION: **Senator Martin** commented he spoke by phone with Dr. Rarick the previous evening for about an hour, and he is impressed with Dr. Rarick's background and qualifications.

VOICE VOTE: The motion to send the gubernatorial reappointment of Dr. Rarick to the floor with recommendation that he be confirmed by the Senate passed by **voice vote**.

S 1015 **Relating to Domestic Water.** **Jerri Henry**, Division Administrator, Idaho Department of Environmental Quality (DEQ), introduced herself to the Committee. **Ms. Henry** advised the bill would repeal Idaho Code § 37-2102, Domestic Water to Be Protected, consistent with the Governor's Executive Order 2020-01. She provided a history of Title 37, Chapter 21 of Idaho Code and stated the most recent revision was in 1998. **Ms. Henry** reported that DEQ consulted with the Department of Health and Welfare and seven public health districts and determined Idaho Code § 37-2102 is not used in either rule or guidance. She added the statute predates the 1974 Safe Drinking Water Act (SDWA) and subsequent regulations, and some language used in the statute conflicts with federal public notification requirements. **Ms. Henry** mentioned Idaho Code §§ 37-2101 and 37-2103 would remain unchanged.

DISCUSSION: **Senator Wintrow** asked for assurance that the statute is outdated, other legislation enacted later supersedes it, and the repeal would not have a negative impact on the quality of Idaho's drinking water. **Ms. Henry** responded in the affirmative and noted the State has adopted the federal SDWA. **Senator Wintrow** asked if the other relevant regulations are more stringent. **Ms. Henry** explained there is a 72-hour public notification requirement in the Idaho Code and the SDWA requires a 24-hour notice. She confirmed the regulations have become more stringent.

TESTIMONY: **Rosa Martinez**, representing herself, testified in opposition to the bill. **Ms. Martinez** wondered if the proposed repeal also keeps canals, lakes, and ponds clean. **Chairman Martin** requested that Ms. Henry respond to the question. **Ms. Henry** answered the section of Idaho Code to be repealed pertains only to drinking water.

Monica McKinley, representing herself, testified in opposition to the bill. **Ms. McKinley** stated her belief the language to be repealed also applies to surface water. She read a portion of Idaho Code and averred the public notification requirement must remain at 72 hours. **Ms. McKinley** mentioned there are contaminant levels and references to other sections of Idaho Code in the statute that are not addressed elsewhere. She opined the statute is not outdated and is still applicable because some language does not appear in the newer laws.

Ms. Henry responded to Ms. McKinley's testimony and stated the legislative history shows the intent of Idaho Code § 37-2102 was to protect drinking water only. She affirmed the statute was drafted to mirror the drinking water standards in effect at the time of enactment, prior to the establishment of the Environmental Protection Agency. **Ms. Henry** repeated the statute is not used by any agency. She added the Clean Water Act protects surface water, and the SDWA protects potable water.

Chairman Martin remarked a member of the public signed up to testify remotely but did not appear at the hearing. He stated he would contact the person after the meeting to identify concerns.

MOTION: **Senator Harris** moved to send **S 1015** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Health Districts. Michael Kane**, on behalf of the Idaho Association of District Boards of Health, introduced himself to the Committee. **Mr. Kane** advised other interested parties were present in the room and available to answer questions.

Mr. Kane explained the history of health districts and described the organization of the State into health districts (see Attachment 1). He reviewed the powers and duties of public health districts to administer state health laws and regulations to preserve and protect public health. **Mr. Kane** described the tools available to health districts and the penalty provisions of the law. He remarked the COVID-19 pandemic has illustrated the need to review the health district laws for possible changes, and stakeholders are working on legislation to address concerns.

Senator Stennett asked whether COVID-19 is considered a norovirus. **Mr. Kane** responded COVID-19 does not fit into the specific definition of a norovirus.

Chairman Martin commented he is most familiar with Central District Health, and he commended its board members for their work in challenging times. He stated he is optimistic about the possibility of draft legislation to update laws pertaining to public health districts..

Senator Wintrow observed her neighborhood is a close urban area and its residents likely have different opinions than those in a rural county. She asked how decisions are made in the best interest of disparate counties.

Bryon Reed, Chairman, Eastern Idaho Public Health (EIPH) Board of Health, introduced himself to the Committee to respond to the question. **Mr. Reed** answered his District 7 is a good example of that situation because it is comprised of the Idaho Falls urban area together with other remote rural counties. He stated the counties have different COVID-19 responses based on the level of virus spread, and his board always defers to local elected officials within that city or county when making decisions on mitigation strategies.

Senator Stennett commented there is confusion about overlapping responsibility among the Governor and the health districts. She mentioned the health districts have autonomy to make decisions on a local level but the Governor made a statewide declaration. **Senator Stennett** asked for an explanation of each entity's jurisdiction. **Mr. Reed** responded the Governor's orders apply to everyone in the State. He explained the health districts did not begin issuing orders until the Governor lifted his stay-at-home order and the virus began to increase in certain areas. **Mr. Reed** added the health districts have authority to develop their own plans and can make more stringent orders than the Governor's order. Cities also have power allowing them to take actions to protect public health, he said. **Senator Stennett** noted some confusion relates to the Governor's phased plan and asked the source of his advice on whether to move forward or pull back. **Mr. Reed** replied the Governor took advice from various entities but he set the phases. He added at least one health district has its own different plan and phases, but they only apply within that district.

Senator Stennett stated there is also confusion and misinformation about where and how to obtain the COVID-19 vaccine. She mentioned receiving feedback from constituents who have gone to public health district offices and were told the vaccine was not available. **Senator Stennett** asked if all health districts are set up to administer vaccines and if vaccines are limited due to inventory or some other reason. She requested clarification of health district involvement in administering the vaccine. **Mr. Kane** responded that the schedule of vaccine administration is set by the Governor and his advisory board, and health districts are assisting with vaccinations. **Geri Rackow**, Director, EIPH, introduced herself to the Committee. She explained all health districts receive an allocation of vaccines from the State, but administering the vaccine depends on the services and resources available to each health district. **Ms. Rackow** said EIPH is taking a direct role and has contacted its enrolled providers to assist them with vaccine administration. She added hospitals, pharmacies, and enrolled medical providers will join with EIPH to administer the vaccine throughout District 7 as the vaccine becomes available to the next priority group of age 65 and over. **Ms. Rackow** noted all seven health districts have been working with the Department of Health and Welfare (DHW) to communicate vaccine information. She commented DHW will be launching a website very soon to direct people to vaccination locations.

Senator Agenbrood thanked Mr. Kane and the health districts for their fine work and mentioned he is happy they are reviewing deficiencies in Idaho Code. He stated Mr. Kane's presentation affirmed his understanding of health district authority. **Senator Agenbrood** observed very little enforcement has taken place and he assumed the health districts are trying to educate the public and ask them to do the right thing based on the best available science. He inquired about when mandates will be relaxed now that vaccines are rolling out and positivity rates are declining. **Mr. Kane** replied that mandates are already being relaxed in some health districts to match the Governor's recommendations. He added that not all health districts have mandates, and health districts try to identify ways to accommodate community needs. **Mr. Kane** added that health district boards meet every week to determine whether mandates can be relaxed.

Senator Heider commented all the health districts are independent of each other. He asked how a community can know the rules for a particular health district's issues. **Mr. Kane** replied for non-pandemic issues, health districts work one on one with the public about alleged violations. He added the primary job of the health district is to educate. Each district has its own website filled with information on any subject and is easy to find. Many situations relate to permitting, and a constituent can talk to an inspector to learn the rules.

Senator Wintrow asked for information on progress of the vaccine rollout. **Elke Shaw-Tulloch**, Administrator, Division of Public Health, DHW, introduced herself to the Committee. **Ms. Shaw-Tulloch** reported DHW has held weekly press briefings regarding vaccine rollout. She added the Governor's COVID-19 Vaccine Advisory Committee is making recommendations on priority groups due to limited vaccine supply. **Ms. Shaw-Tulloch** described the process for receiving vaccines. She reported the State receives approximately 21,000 doses per week. **Ms. Shaw-Tulloch** noted the federal government tells DHW how many doses of vaccine will be shipped, DHW provides that information to the health districts, and the health districts work with local enrolled providers to determine where vaccines will be shipped. She added DHW provides shipping information to the federal government, and vaccine is shipped directly from the manufacturer to the approximately 350 Idaho enrolled providers. **Ms. Shaw-Tulloch** explained the amount of vaccine allocated to each provider is based on the population of the priority group in the health district. **Senator Wintrow** mentioned she has heard rumors that the State is receiving vaccines but they are not being administered.

Chairman Martin asked if enough vaccinations will be available to cover the age 65 and over priority group. **Ms. Shaw-Tulloch** responded that DHW has been told to expect around 21,000 doses per week for the foreseeable future. She mentioned supply could increase because new vaccines are coming to market, and the Biden administration has discussed using the Defense Production Act to increase vaccine manufacturing. **Ms. Shaw-Tulloch** asked for patience because it is a large population group and it could take weeks to receive sufficient vaccine.

Mr. Kane concluded by offering to serve as a resource to the Committee for health district information.

Bill Leake, Board of Health Member, EIPH, introduced himself to the Committee. He mentioned he is over 65, and he learned it will take 10 to 14 weeks for his age group to receive the vaccine.

Tom Dale, former Board Member, Southwest District Health, introduced himself to the Committee to respond to Senator Heider's question. **Mr. Dale** advised that health districts are obligated to enforce standards and rules set by the State, and individual health districts do not set standards.

Senator Zito inquired about the State's Emergency Management Operations Plan which defines a moderate pandemic as 25 percent attack rate and 1.5 percent fatality rate. She calculated with current COVID-19 cases, Idaho would have 6,490 deaths and approximately 432,000 illnesses. **Senator Zito** stated the COVID-19 pandemic did not reach those numbers and asked the reason Idaho went into pandemic mode. **Mr. Kane** replied the State followed recommendations from the Centers for Disease Control and Prevention regarding the pandemic.

ADJOURNED:

There being no further business at this time, **Chairman Martin** adjourned the meeting at 4:15 p.m.

Senator Martin
Chair

Jeanne Jackson-Heim
Secretary