

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 01, 2021

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Guthrie, Senators Winder, Anthon, Harris, Lee, Heider, Stennett, and Burgoyne

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 meeting of the Senate State Affairs Committee (Committee) to order at 8:07 a.m.

VOTE ON GUBERNATORIAL REAPPOINTMENT: **Vote on the Gubernatorial Reappointment of Kristine Raper to the Public Utilities Commission (PUC).**

MOTION: **Senator Anthon** moved to send the Gubernatorial reappointment of Kristine Raper to the PUC to the Senate floor with the recommendation that she be confirmed. **Senator Winder** seconded the motion. **Senator Burgoyne** disclosed his application and interest in this vacancy. He supports Ms. Raper's confirmation. The motion carried by **voice vote**.

RS 28300 **Relating to Alcohol to address the ambiguity in the law relating to waterfront liquor licenses.**

Brian Donesley, attorney representing a client from Island Park, Idaho, who owns and operates a waterfront resort, explained how his client is affected by the liquor licensing conditions that have challenged their qualification to renew their liquor license issued in 2014. He cited the water-flow definition as the primary ambiguity and specified the amending of Idaho Code § 23-948 as a solution that could allow his client the ability to maintain their classification as a waterfront resort with an operational liquor license. **Chairwoman Lodge** asked where the business is located in Island Park. **Mr. Donesley** described the business location as Northern, on Henry's Fork of the Snake River.

MOTION: **Senator Anthon** moved to send **RS 28300** to print.. **Senator Winder** seconded the motion.

DISCUSSION: **Senator Guthrie** noted the liquor license was issued to the Island Park resort without sufficient water flows originally. It is not a violation but an oversight about minimum required water flows and asked the issue be addressed during the hearing.

Senator Stennett asked what other establishment owners in the Island Park vicinity may be affected by the fluctuation of river flows. Also, she asked why the resort is suddenly not meeting the criteria, and if Mr. Donesley's client is specifically being targeted for noncompliance. **Senator Heider** agreed with Senator Stennett's line of questioning. He expressed concern that water flows throughout the year change constantly and said it seemed inordinate to base a liquor license on this factor. He recommended adjusting Idaho Code to correlate

to resorts along or near water and not the flow of the body of water near a business establishment. **Mr. Donesley** responded that he would present a much clearer picture of waterfront resorts Statewide at a future hearing.

Senator Winder asked Senator Burtenshaw if he supports this RS. **Senator Burtenshaw** stated that although he is not a supporter of liquor licenses, he completely supports his constituent who is attempting to maintain both his license and his investment in his resort properties. **Senator Burtenshaw** said he is eager to see any discrepancies in the issuance of the liquor license resolved in favor of the waterfront business owner.

VOTE :
S 1018

The motion to send **RS 28300** to print carried by **voice vote**.

Relating to the Idaho State Historical Society (ISHS) to clarify statutes, eliminate inactive law provisions, and amend or repeal other aspects of the law relating to the ISHS.

Janet Gallimore, Executive Director ISHS, stated the objective of the bill is to meet the intent of the Governor's Red Tape Reduction Act. Page 1, line 13, repeals Idaho Code § 14-534. This section allows the ISHS to exhibit unclaimed property that is in the possession of the State Treasury. This provision has not been used in over 15 years. Those items are subject to risk and expense to the State during storage, management, or exhibition of private property that is held without a valid loan agreement. Julie Ellsworth, State Treasurer, reviewed the change and she had no objections, according to Ms. Gallimore.

Ms. Gallimore explained that Lines 21-22, page 1 removes the ISHS expense liability for reinterment of human remains disturbed by others. Section 3, Page 2, lines 5-8 addresses the lease of the Old Idaho Penitentiary site and removed the provision for revenue earned in excess of operational costs to be credited to the Permanent Building Fund (PBF).

Ms. Gallimore stated the State and Federal Code is not aligned with the ISHS structure pertaining to the duties of the State Historical Preservation Officer. The Director of the Society, in relation to the responsibility and role, should serve concurrently as the State Historical Preservation Officer for fiscal and administrative purposes.

DISCUSSION:

Senator Anthon questioned the reasoning for a full repeal of Idaho Code § 14-534. **Ms. Gallimore** explained that the statute allows ISHS to borrow property until the owner(s) comes back and claims it. The preferred policy of the agency is ownership by the State of Idaho or the item is properly on-loan to the ISHS. **Senator Anthon** thanked Ms. Gallimore for her explanation. He continued to investigate the Treasurer's role in the care of unclaimed items if the Committee repealed the statute. **Ms. Gallimore** explained she is not familiar with the process of the Treasurer relating to unclaimed property and that this Code only allows an item to be borrowed and not donated to the ISHS.

Senator Burgoyne said he assumed, that often there are historical discoveries or archeological finds that have disputed ownership and need a safe place to stage until the items are possessed by an owner. He implied that this Code might maintain the security and preservation of an artifact beyond the determination of the item's final destination. **Ms. Gallimore** outlined the process of the ISHS when receiving an artifact and how the ISHS prefers a clear title. She stated there have been no instances in her 15 years where a rare, high-valued, or historic artifact ended up as unclaimed property.

Senator Harris referenced Idaho Code § 27-502 and asked Ms. Gallimore if reinterment had occurred during her Directorship and what amount of compensation was made by the State Historical Society. **Ms. Gallimore**

emphasized there is no known occasion during her time of service. She explained that an inadvertent disturbance of remains would be the financial obligation of the person(s), business, or organization involved in the action. **Senator Harris** inquired about the expense of reinterment. **Ms. Gallimore** responded she did not know the cost, however, she speculated there could be a difference of partial human remains versus a whole burial site.

Senator Burgoyne stated his concern about who would care for the remains if ISHS is no longer responsible. **Ms. Gallimore** explained the final liability is with the one who caused the damage.

MOTION: **Senator Heider** moved to send **S 1018** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

DISCUSSION: **Senator Burgoyne** indicated that the responsibility should not fall on the ISHS but should be assigned to an agency.

Senator Anthon inquired if, in a legitimate event of human remain disturbance, the ISHS exclusion would be regretted. **Ms. Gallimore** explained there are federal laws that ISHS is required to follow, for example, The Native American Graves Repatriation Act that would grant them jurisdiction to respond to such an event.

The motion carried by **voice vote**.

INTRODUCTION: **Senator Anthon** introduced Randy Lofgran, a University of Idaho law student, who is working in the Majority Leader's Office as a Legal Intern. He suggested that anyone who has a need for legal research support to see Mr. Lofgran.

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:47 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary

Shelley E. Turley
Assistant Secretary