

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 01, 2021

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Chairwoman Lodge

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: **Vice Chairman Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:04 a.m.

H 46 **Relating to the Military to revise certain provisions regarding security duties at the Orchard training Area.**

Captain Brandon Karpen, Attorney Advisor to the Adjutant General, Idaho Military Division (Division), explained **H 46** relates to requirements for security personnel at the Orchard Combat Training Center (OCTC). He provided an overview of the duties and mission of the Division and described the location and training facilities of the OCTC. **Captain Karpen** stated that security personnel at the OCTC are employees of the Division but are paid with federal funds. He added they are not law enforcement personnel and do not investigate crimes or make arrests. **Captain Karpen** noted that Idaho Code § 46-408 requires security personnel to maintain Idaho Peace Officer Standards and Training (POST) certification and gives them arrest authority. He said the Division does not follow these requirements, and **H 46** removes the unwanted provisions from Idaho Code.

DISCUSSION: **Senator Burgoyne** asked if security personnel are members of the National Guard or military police and inquired about public access to the OCTC facility. He inquired if they are armed and is there a holding facility at OCTC. **Captain Karpen** responded that security personnel are not members of the National Guard or military police. He reported that some parts of the OCTC are open to private citizens but security personnel deny them access to areas of the OCTC containing equipment and personnel. **Captain Karpen** remarked that OCTC security personnel have authority to detain someone if they see a crime committed, but they are simply guards to secure the facility. **Captain Karpen** assured Senator Burgoyne that **H 46** would not negatively impact the security of any facilities or equipment and noted that the security personnel are armed, but there is no holding facility.

MOTION: **Senator Anthon** moved to send **H 46** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion.

DISCUSSION: **Senator Burgoyne** remarked that perhaps OCTC security personnel ought to be POST certified, and he is not persuaded the bill is appropriate.

VOTE: The motion to send **H 46** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Burgoyne** was recorded as voting nay.

H 66 **Relating to Elections to ensure transparency in bond and levy elections.**

Senator Doug Ricks, District 34, explained **H 66** specifies the exact language for a taxing district bond or levy ballot question and provides a judicial enforcement mechanism in case of a legal challenge. **Senator Ricks** reported he worked with the Idaho School Boards Association (ISBA), and they agreed on some amendments. He advised the bill should go to the 14th Order of Business. **Senator Ricks** provided examples of bond and levy elections where proponents did not follow the law, and the courts found no remedy in the law.

DISCUSSION: **Senator Stennett** asked who would be charged with enforcement and inquired how a proponent will know how to calculate the amount of tax impact to ensure accuracy. She inquired why the bill is needed if the law already includes the requirement. **Senator Ricks** responded that the requirement to include the tax cost of the levy has been in place for several years and is not in question. He said the purpose of the bill is to ensure proper disclosure and appropriate ballot language. **Senator Stennett** requested confirmation that the penalty for non-compliance is for the taxing district to reimburse the cost of the election. **Senator Ricks** replied in the affirmative. **Senator Stennett** commented that the tax dollars for both the taxing district and the county clerk come from the same source.

Senator Burgoyne asked if the amendments are prepared and available for the Committee's review. **Senator Ricks** responded that the proposed amendments were drafted but not finalized; they will repeal a prior levy, require information on the net property tax impact of a levy, and remove the bill's restrictive bond election language. **Senator Burgoyne** asked if the proposed amendments would include the same tax impact requirement for bond elections. **Senator Ricks** answered no, because it is difficult to write proper statutory language to address the variation in bond packages. He added that he plans to work on the bond language for a future legislative session.

Senator Lee asked if the bill would affect disclosure of bond refinance information to taxpayers or discourage school districts from refinancing bonds. **Senator Ricks** responded that he worked with the ISBA on the proposed amendment language, which will retain the existing language pertaining to bond elections.

TESTIMONY: **Brian Stutzman**, Ammon, Idaho, representing himself, testified in support of **H 66** with amendments. **Mr. Stutzman** noted he worked with the ISBA to develop the amendments and reiterated that the bill, if amended, would provide an enforcement mechanism, standardize ballot language, and remove requirements for bond language.

Karen Echeverria, Executive Director, ISBA, testified in support of **H 66** with amendments. **Ms. Echeverria** affirmed that the ISBA is content with the amendments and will work with Senator Ricks on future changes regarding bond elections. She advised the amendments will require ballot language to be consistent for every election, including specific information on the tax impact of a levy.

DISCUSSION: **Senator Burgoyne** asked for clarification about amending the language pertaining to bonds. **Ms. Echeverria** answered that **H 66**, as written, limits the information that can be included on a ballot. She reiterated the amendments will remove that limiting language from the bill to allow for a better bill.

Senator Winder inquired whether Ms. Echeverria saw the amendments and if they are available to share with the Committee. **Ms. Echeverria** responded that she has an electronic copy of the amendments and can provide them to the Committee.

Senator Stennett asked whether taxing districts typically pay for the cost of an election. **Ms. Echeverria** answered that taxing districts have not paid for elections in the past. She said the bill requires the taxing district to pay for an election if the

ballot is incorrect. **Ms. Echeverria** explained that bonds are very complicated and taxing districts will invariably use bond counsel. She noted that taxing districts commonly consult other governmental entities to prepare the property tax impact language for a levy ballot.

MOTION: **Senator Harris** moved to send **H 66** to the 14th Order of Business for possible amendment. **Senator Heider** seconded the motion.

DISCUSSION: **Senator Burgoyne** said he can support sending the bill to the 14th Order of Business with the amendments as described. He observed if a district is required to pay to rerun an election, it will be an incentive to correctly state a ballot question.

Senator Winder commented he does not want to make it more difficult for schools to obtain funding. He added that the amendments as described will resolve most of his concerns. **Senator Winder** noted that supplemental levies have become very important to school districts to make their budgets work. He advised that the Legislature should develop a sustainable school funding mechanism so supplemental levies are not necessary.

Vice Chairman Guthrie agreed with Senator Winder's comments and thanked Senator Ricks for his work on the bill.

Senator Anthon said he will support the motion based on his trust that Senator Ricks and Ms. Echeverria will work together to ensure the amendments are responsible.

VOTE: The motion to send **H 66** to the 14th Order of Business for possible amendment carried by **voice vote**.

SJR 102 **Proposing an Amendment to the Idaho Constitution relating to legislative sessions.**

Senator Winder reported that **SJR 102** is similar to a House Joint Resolution previously considered by the Committee. He reviewed Articles II and III of the Idaho Constitution. **Senator Winder** remarked that state sovereignty requires a balance of power among the three branches of government. He observed there is a power imbalance in favor of the executive and judicial branches because the Legislature does not have authority to call itself into session to fulfill its constitutional duties. **Senator Winder** reported information from the National Conference of State Legislatures (NCSL) on state legislatures with the ability to call themselves into special session (see Attachment A). He discussed the 60 percent signature requirement and stated that **SJR 102** would not lead to a full-time legislature.

DISCUSSION: **Senator Stennett** asked Senator Winder to explain how the Idaho judiciary has more power than the Legislature. **Senator Winder** answered that the judiciary can more easily perform its role because it is a year-round body with many employees, but the Legislature cannot act outside a regular session without action by the Governor. **Senator Stennett** inquired if the leaders of the House and Senate could simply choose to hire more employees. **Senator Winder** replied that it is possible, but Idaho has a part-time Legislature, and it is important to keep expenses to a minimum. He affirmed the issue is the Legislature's inability to call itself into session. **Senator Stennett** asked about Senator Winder's statement that **SJR 102** would not lead to a full-time legislature, given the example of Utah's legislative history, which has called itself back into session seven times. **Senator Winder** responded that the amendment would require 60 percent of both houses of the Legislature to agree, and he trusts each member of the body not to abuse its power.

Senator Burgoyne noted that a requirement of two-thirds of the Legislators could be achieved by gaining support of both Senate caucuses. He related his concerns about the resolution, including a lack of specific reasons for a special session, the difficulty of part-time legislators with careers to attend a special session, the

possibility of legal challenges, less incentive for the Legislature to work efficiently during the regular session, the possibility of future legislative abuse of power, and a greater temptation to use a special session for electoral purposes. **Senator Burgoyne** remarked that a two-thirds threshold is necessary, and a part-time Legislature should be reinforced by limitations on the reasons for a special session.

MOTION: **Senator Harris** moved to send **SJR 102** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

DISCUSSION: **Senator Winder** reminded the Committee that the resolution requires a joint written petition of both the House and Senate, enumerating the topics to be considered. He noted that specifying a list of reasons for a special session in the resolution might be too limiting and could lead to disagreements about whether an issue fits a particular category. **Senator Winder** said he supports the motion.

Vice Chairman Guthrie agreed that the Legislature should be able to call itself into special session and stated that the amendment has a better chance of voter approval if it contains a two-thirds threshold. He added he cannot support the motion for that reason.

VOTE: The motion to send **SJR 102** to the floor with a **do pass** recommendation carried by **voice vote**. **Vice Chairman Guthrie**, **Senator Stennett**, and **Senator Burgoyne** were reported as voting nay.

ADJOURNED: There being no further business at this time, **Vice Chairman Guthrie** adjourned the meeting at 9:13 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary

Jeanne Jackson-Heim
Assistant Secretary