

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Thursday, March 18, 2021

TIME: 9:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Crane, Vice Chairman Armstrong, Representatives Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug (Andrew), Gannon, Mathias

**ABSENT/
EXCUSED:** None

GUESTS: Trevor Chadwick - City of Star Mayor, Ty Palmer - Self, Kelli Brassfield - Idaho Association of Counties, Jason Hancock -Deputy Secretary of State, Phil McGrane - Ada County Clerk, V. Miller - Self, Jayme Sullivan - City of Boise Attorney

Chairman Crane called the meeting to order at 9:00 a.m.

Chairman Crane said he was reordering the agenda, moving **RS 28382C1** to the bottom of the agenda to ensure the other pieces of legislation were brought before the committee.

RS 28851: **Rep. Horman** presented **RS 28851**. This legislation is a trailer bill to **H 73** to address an oversight. Since **H 73** requires local government accounting, budgetary, and financial information to be reported through a public website maintained by the State Controller, there is no longer a need for cities to file their annual appropriation ordinance with the Secretary of State. Such reporting would be duplicative and undermine the purpose of the one-stop-shop of local government financial information created by **H 73**.

Rep. Furniss made a motion to introduce **RS 28851**. **Motion carried by voice vote.**

Rep. Young requested permission to present **H 137** and **RS 28850**, together. Permission was granted. **Rep. Young** expressed her desire to hold **H 137** in committee and introduce **RS 28850** and recommend it be sent to the second reading calendar. This legislation would authorize the Secretary of State to order a post-election audit of election results after a general or primary election, using procedures he would provide to county clerks at least 60 days prior to the election. Conducting such an audit would increase public confidence in election results by checking the paper ballots, which exist for each and every vote cast in Idaho, against the election results that counties tabulate and report. If problems are identified with any reported election results, the Secretary of State could order the audit of additional ballots.

In response to questions, **Rep. Young** said the Clerk's Association had concerns about **H 137**. Their concerns were addressed in **RS 28850**. Detail was added about what elections would be covered and who would carry out the audits. **Rep. Young** asked the committee to hold **H 137** and introduce **RS 28850** and recommend it be sent to the second reading calendar.

MOTION: **Rep. Holtzclaw** made a motion to **HOLD H 137** in committee and introduce **RS 28850** and recommend it be sent to the second reading calendar.

Rep. Gannon stated that it was not clear what would happen if the audit results show a different result than the canvas and certification of the election.

Rep. Mathias stated he is in support of **RS 28850** being introduced but wants a full hearing on the bill. He expressed concern about adding a new section to code without knowing the logistics of how it would work. There was also a concern if the audit shows a different result than the canvas and certification of the election.

SUBSTITUTE MOTION:

Rep. Mathias made a substitute motion to **HOLD H 137** and introduce **RS 28850**.

Jason Hancock, Deputy Secretary of State responded to questions. He said the review is narrowly tailored, recounting paper ballots cast from no more than 5% of precincts. The hand count should match results from voting machines. The Secretary of State may order additional post-election audits if there is a discrepancy. There are already provisions in Idaho code for requesting a recount or contesting election results. The timeframe of the audit was changed so it would occur two days after the completion of the canvas but before the deadline for people to file for recounts or election contests. The process to be used for recounting ballots would be shared with the County Clerks two months before election day.

Phil McGrane testified in support of this legislation. Worked closely with **Mr. Hancock** to refine this legislation. It is simply testing the validity of the voting machines. A true audit would be more comprehensive and it may be addressed in the future. It is a first step. Mr. McGrane receives a lot of questions about the voting machines.

Kelly Brassfield was neutral in her testimony. She said the Idaho Association of Counties has concerns about the process not being defined. She stated this proposed legislation is premature and wants to work with the Secretary of State's office over the interim to more fully develop the review process. In response to a question, Ms. Brassfield said the Idaho Association of Counties is working with the Secretary of State's office, but the possibility exists Clerks could still be taken off-guard by the review process.

During discussion, **Rep. Furniss** said his clerks are still uncomfortable with this proposed legislation. They would like more input and information. He will not support the original motion.

Rep. Scott said constituents can already look at signatures and ballot counts but they cannot look at the accuracy of the voting machines. This would alleviate questions. She will support the original motion.

Rep. Barbieri appreciated the clarity of **RS 28850** and does not want to see more details in the legislation. If there are problems, the legislature can address them at that time. He will support the original motion.

Rep. Mathias stated Idaho is responsible for solving its own problems, not the problems of other states. He does not believe this issue is as time sensitive as it is in other states.

Rep. Young closed by saying this topic has been one of the top concerns of her constituents. The Secretary of State's office has made a good faith effort in working with the County Clerks to make positive changes to address their concerns. There is every reason to believe that a strong working relationship will continue throughout the process. There is a need to address the concerns of our constituents and pass this legislation this session.

ROLL CALL VOTE ON SUBSTITUTE MOTION:

Roll call vote was requested. **Substitute motion failed by a vote of 3 AYE and 11 NAY.** Voting in favor of the motion: **Reps. Furniss, Gannon, Mathias.** Voting in opposition of the motion: **Reps. Crane, Armstrong, Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Hanks, Andrew.**

**VOTE ON
ORIGINAL
MOTION:**

H 319:

Motion carried by voice vote. Rep. Young will sponsor the bill on the floor.

Rep. DeMordaunt presented **H 319**. This legislation would increase voter participation in municipal elections by moving municipal elections of all city officers, mayors, and municipal bonds and levies to even-numbered years on the November general election ballot. Voter turnout is significantly higher in even-year elections.

Rep. DeMordaunt stated 81.2% of Idaho's eligible voters cast their vote in the last presidential election. In municipal elections only 21% of Idaho's eligible voters exercised their right to vote. She said that by aligning municipal elections with Federal and State elections, voter participation will increase dramatically. Rep. DeMordaunt shared several statistics about voter participation rates. In addition to making elections more accessible, election consolidation would provide a cost savings to local units of government of approximately, \$500,000.

In response to questions, **Rep. DeMordaunt** said an emergency clause was added to give cities time to adjust to the new time line. She indicated language in **H 319** does not conflict with **S 1111** and said a comprehensive spreadsheet has been created to track elected officials' terms. Redistricting would be delayed by one year and go into effect in 2024 rather than 2023. Rep. DeMordaunt stated future legislation could address the percentage of signatures needed to place an initiative on the ballot.

Ty Palmer, Trevor Chaddick and **Greg Pruitt** testified in support of **H 319**. All agreed that more voter participation in municipal races is needed. The difference in voter turnout is significant between even and odd year elections and all races and initiatives are important. Increasing the number of people voting will also increase accountability of our elected officials. Most of these individuals did not have an objection with it being more difficult to initiate a recall.

In response to a question, **Mr. Pruitt** felt a separate piece of legislation is needed to address the percentage of signatures required for recalls and special initiatives.

Jayme Sullivan and **Kelli Brassfield** testified in opposition to **H 319**. It was stated there are significant legal concerns and considerations, given there is no guidance about how to implement the change of election dates. There is a legal barrier to city council members and all elected officials. The current statute states elected officials can serve two or four-year terms. **H 319** is setting the state up for potentially lengthy litigation. Cities could face additional litigation.

H 319 undercuts implementation of **S 1111** including the timing component. There would be a direct impact on initiative, referendum and recall movements. It would dilute the power and authority of the electorate to get initiatives on the ballot. The work that went into **S 1111** was diligent. There are other code fixes that would need to be made. There were also concerns about precinct boundaries not matching up with city boundaries.

In response to questions, **Ms. Sullivan** said there is nothing in statute to deal with three or five-year terms. She said she identified at least three areas of code which would be affected. The initiative and referendum process is currently in statute for odd years.

Phil McGrane – Made comments about **H 319** but remained neutral. He acknowledged County Clerk elections have a substantially higher turnout in even years. Mr. McGrane said this legislation is complicated. City boundaries would be a challenge. City elections are constantly changing. Precinct boundaries do not always follow city boundaries and requiring more types of ballots to be produced. He provided an example. Eagle held a bond election to build City Hall. Two types of ballots were used. A recount was requested and it cost \$180,000. This legislation would also create shortened and elongated terms in the transition.

In conclusion, **Rep. DeMordaunt** said legal issues were thoroughly vetted. Power extends to the legislature to specify and dominate what offices may be united and how those offices may be filled. This is different than the concerns and legal challenges of **S 1111**. This legislation has been three years in the making. Admittedly, a ballot would be more complicated but it is more important to have citizen engagement. Rep. DeMordaunt read an analysis from **Brian Kane** of the Attorney General's Office. She emphasized it was not a ruling. She said it is not appropriate for the Legislature to dictate any language for city ordinances in adjusting to the change this bill would bring. The process is already in place for cities to hold an open meeting hearing and then change the ordinance to adjust the terms of their city council members.

The Committee went at ease at 10:14 a.m.

Chairman Crane called the committee back to order at 10:19 a.m.

A committee member stated district elections in Boise are very important. The unintended result would be to interfere with redistricting and push it forward to 2024. The recall and initiative processes are critical to our democracy and provide a good check and balance system. Committee members expressed they want to ensure this legislation is in sync with **S 1111**.

In response to questions, **Rep. DeMordaunt** said if there is a recall, signatures are required from a percentage of those who cast ballots. The number of signatures needed to activate a recall would be higher because there would be greater voter participation and there would be more voters voting on the recall itself. This bill is directed toward increasing voter turnout.

MOTION: **Rep. Palmer** made a motion to send **H 319** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Reps. Mathias and Gannon** requested to be recorded as voting **NAY**. **Rep. DeMordaunt** will sponsor the bill on the floor.

RS 28862: **Rep. Ehardt** presented **RS 28862**. This proposed legislation has been before the committee before. It deals only with the replacement of school board trustees who are recalled. In the case of a recall, if there is a scheduled election within 100 days, nobody would be appointed to the vacancy. The position would be placed on the ballot. If the next scheduled election is more than 100 days away, a person would be appointed to fill the position and the word temporary would be next to their name on the ballot in the next scheduled election.

The timing was changed from 90 days to 100 days to give the County Clerk's office time to put the trustee election on the ballot. This process was established to minimize divisions which can occur within the community when there is a recall.

MOTION: **Rep. Barbieri** made a motion to introduce **RS 28862**. **Motion carried by voice vote.**

MOTION: Subject to the call of the chair, **Rep. Mathias** to made a motion to **HOLD RS 28382C1** in committee. **Motion carried by voice vote.**

MOTION: Rep. Mathias made a motion to approve minutes from February 9, 2021, February 19, 2021, February 26, 2021, March 2, 2021 and March 4, 2021. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:27 a.m.

Representative Crane
Chair

Kelly Staskey
Secretary