

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 25, 2023

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Adams, Senators Guthrie, Den Hartog, Harris, Okuniewicz, Schroeder, Semmelroth, and Taylor

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 Burtenshaw** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

RS 29975: **Priest Lake Outlet Control Structure. Senator Herndon** explained **RS 29975** clarified that the existing Priest Lake outlet control structure was under the sole and exclusive supervision and control of the Idaho Water Resource Board. It also required approval of the Idaho State Legislature and the Governor before any additional outlet control structure for Priest Lake could be constructed.

MOTION: **Senator Den Hartog** moved that **RS 29975** be sent to print. **Senator Adams** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Brent Baker of Athol, ID to the Lake Pend Oreille Basin Commission** for a term commencing July 24, 2020 and expiring on July 24, 2023. **Mr. Baker** presented before the Committee via video. He shared that he was a retired builder and developer. He had lived in Bonner County on the same ranch for the past 46 years. He had served Bonner County and the State of Idaho in multiple capacities, and had served the Lake Pend Oreille Basin Commission since its inception. He believed the health of the Lake Pend Oreille Basin was critical to the area's economy. He appreciated the purpose of the Commission, which was created to watch Idaho's interests and the local communities' interests in the area and to operate as a clearinghouse for information to make sure good decisions were made.

DISCUSSION: In response to a question from Senator Harris, **Mr. Baker** stated the biggest change in the area was the recent huge influx of people from out of the area, which has put significant demand on resources and development processes.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of John Ford Elsaesser of Priest River, ID to the Lake Pend Oreille Basin Commission** for a term commencing July 24, 2021 and expiring on July 24, 2024. **Mr. Elsaesser** presented before the Committee. He shared he had been chairman of the Commission since its inception 20 years ago. He reviewed some accomplishments of the Commission. This included negotiating a resolution to keep Lake Pend Oreille at the highest level for the longest period of time, so recreation on the lake could continue through September when the weather was still warm. He shared the Commission was involved in a number of Priest Lake projects, including fixing the thoroughfare at the access to Upper Priest Lake and obtaining funds to automate the Albeni Falls Dam, and they obtained funds to rebuild the Clark Fork and Pack River deltas so that they lost less ground,

which had been dramatically beneficial to wildlife. He stated this was an advisory commission that has no real authority, although they were a party and were authorized by the State to retain legal assistance for Columbia River Treaty work.

DISCUSSION: **Senator Guthrie** asked where the Commission obtains their funding. **Mr. Elsaesser** responded that they had a nominal budget that came through the Idaho Department of Environmental Quality to their Regional Soil Conservation Board, in addition to some appropriations. In response to another question from Senator Guthrie, **Mr. Elsaesser** stated the Commission has not taken a position on using siphon tubes to cool fish. In response to questions from Senator Okuniewicz, **Mr. Elsaesser** stated members of the Commission were advisers to the Governor. In response to a request from Chairman Burtenshaw, **Mr. Elsaesser** provided some details on his prior environmental litigation involving lakes and rivers that impacted Lake Pend Oreille and the Kokanee salmon.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Timothy Murphy of McCall, ID to the Idaho Fish and Game Commission** for a term commencing June 30, 2022 and expiring on June 30, 2026. **Mr. Murphy** presented before the Committee. He shared he was currently Chairman and Region Three Commissioner for the Idaho Department of Fish and Game (IDFG). He worked for almost forty years for the Bureau of Land Management (BLM), nearly half of that in Idaho. He concluded his career after five years as BLM's Idaho State Director, where he enjoyed a productive relationship with leaders at multiple state agencies, including IDFG. He has hunted and fished throughout his life. He found the leadership and the staff across IDFG to be remarkably professional, responsive, and effective at their mission. He stated he was a believer in integrating land and wildlife management with the views of local communities.

DISCUSSION: **Senator Harris** asked Mr. Murphy to elaborate on his ideas for reducing agricultural depredation. **Mr. Murphy** offered a recent example of his work in the Weiser watershed, where there were problems with depredation and disturbance by black bears. He set up a task force of local citizens with different points of view, including a beekeeper, a leader in Idaho archery, and a landowner with livestock. After about seven months, at their final meeting, all six task force members could live with the results, which were to expand hunting from general to draw only in the lower country. **Chairman Burtenshaw** asked if the process of the Commission worked. **Mr. Murphy** responded with a resounding yes.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Jordan Cheirrett of Lava Hot Springs, ID to the Idaho Fish and Game Commission** for a term commencing July 18, 2022 and expiring on June 30, 2026. **Mr. Cheirrett** presented before the Committee. He shared that he was born and raised in Bear Lake Valley. He had been involved in small business his whole life. One of his favorite things to do as a boy was to get on a horse with his dad in the back country and chase big game and also have big game chase them.

DISCUSSION: **Senator Den Hartog** asked about a possible conflict of interest noted on Mr. Cheirrett's information packet. **Mr. Cheirrett** responded that there was a concern because his business sold trailers to IDFG, but through the bidding process it was determined there was no conflict of interest and this issue was resolved. **Senator Guthrie** asked what the IDFG was doing about the damage in his area by the large number of wild turkeys. **Mr. Cheirrett** responded he knew that this issue has come up in a few committee meetings and he felt that there would be a future plan to reduce the population. Senator Harris asked **Mr. Cheirrett** to expand on his statement about being chased by big game. **Mr. Cheirrett** shared a story about when he was five or six years old and chasing big game with his dad they were chased by a bull moose. In response to another question from Senator Guthrie, **Mr. Cheirrett** stated the biggest surprise to him

when starting with the Commission was how much the employees of IDFG cared about their jobs and how much they wanted the agency to succeed.

**PASSED THE
GAVEL:**

Chairman Burtenshaw then passed the gavel to Vice Chairman Adams.

**DOCKET NO.
24-3501-2201:**

Rules of the Outfitters and Guides Licensing Board (ZBR Chapter Rewrite)

- Proposed Rule. Anne Lawler, Bureau Chief, Occupational Licenses Bureau of the Division of Occupational and Professional Licenses (DOPL) and Executive Officer, Outfitters and Guides Licensing Board (OGLB) reviewed changes to **Docket No. 24-3501-2201. Ms. Lawler** referred the Committee to the 2023 Pending Rule Book found on the Idaho Office of the Administrative Rules Coordinator website and to the provided red-lined copy reflecting changes (Attachment 1). She began by saying that sections in this Docket have not been organized in many years, so many sections were moved, combined, and renumbered to match the current numbering convention. Revisions included:

- Pages 1-3, Section 003: removed terms that were no longer used, defined elsewhere, such as in the OGLB or Idaho Department of Fish and Game (IDFG) statutes, or terms that were only used once.
- Pages 4-6, Sections 100, 101: all licence-related sections were combined into new sections 100 and 101 and simplified.
- Pages 8-10, Section 103: Guide licensure and the qualifications for guide activities were completely reworked. Guide licenses were revised to be independent from outfitters licenses, and outfitters no longer obtained licenses for the guides. The guide license would be valid as long as the guide has an employment agreement with an outfitter. Sections listing detailed training and experience requirements for a Guide in every major type of activity (hunting, boating, snow, activities, mountaineering, etc.) were simplified and condensed into one section. Guide qualifications, training, and training logs were moved to be the responsibility of the hiring outfitter rather than OGLB.
- Page 10, Section 201: this section was simplified to a basic definition and examples were removed.
- Pages 10 and 11, Section 202: the standards for non-use were simplified to the basic requirement and necessary definitions. The process and required documentation to prove use of outfitter areas was moved to the website.
- Pages 12 and 13, Section 203: six separate sections related to hot pursuit, safety, conflict or environmental concerns, predator overlap, and controlled hunts outside of an operating area were consolidated into one section with those six separate subparts.
- Page 14, Section 204: some basic business items were simplified to remove items that were handled by the business owner rather than by OGLB.
- Pages 22 to 25, Section 257: changes to this section updated language to match changes in allocation made by IDFG, clarified and streamlined language, clarified tag calculations that were confusing or did not work, changed "outfitter" to "outfitting operation", updated the tiebreaker process to be more equitable, and updated the hardship section to remove specific due dates and examples of good cause.
- Pages 25 through 36, Section 259: changes included minor updates to descriptions of river sections that came from the United States Forest Service, along with changes to numbers of outfitters to be licensed in certain sections. The OGLB initially considered removing this section and allowing outfitter limitations on rivers, lakes, and reservoirs to be determined by land managers

rather than OGLB. After opposition from stakeholder groups, OGLB agreed to keep the limitations provided in this section and to send any proposed changes through the negotiated rulemaking process on a case by case basis.

- Pages 37 and 38: removed specifically defined authorizations assigned to the Executive Director, which had been moved to the OGLB Division Administrator.
- Page 38, Section 300: discipline language from earlier sections was moved to this section, and discipline language that duplicated statute was removed.

Ms. Lawler concluded by stating there were no changes made to fee amounts within the rules.

DISCUSSION:

Chairman Burtenshaw asked if unfilled tags were redistributed to other outfitters. **Ms. Lawler** explained that although an outfitter received the designation for a tag, it was the hunter that purchased the tag, and that tag did not revert to the outfitter or to IDFG. In response to another question from **Chairman Burtenshaw** asked what happened when an outfitter was in hot pursuit of an animal and went outside his area. **Ms. Lawler** explained that the way hot pursuit worked was that if you were pursuing with hounds and you crossed over into another outfitters' area, you did not violate your license, but you would not want to leave the unit for which you have the hunting tag. **Senator Guthrie** asked for clarification on why OGLB fees were only in statute and not in rules and what the process was to change fees. **Ms. Lawler** responded that although it is not typical of their licensing boards to have fees in statute, it has been for OGLB. In response to another question from Senator Guthrie, **Ms. Lawler** stated guidance from the Governor's office was to not duplicate anything from statute to rule because the expectation of a licensee was that they know both the statute and the rule. She added they have guidance on their website to explain where things were found, including references to fees in statute. **Senator Okuniewicz** asked how long an outfitter could have rights to a certain designated area, and what happened to designated areas when the outfitter stopped using the area. **Ms. Lawler** explained that an outfitter needed to show use of the area within a three year period. She added that if an outfitter gives up their area for some reason, the replacement outfitter would come from a waiting list or OGLB would initiate an application process for that area and OGLB and the applicable land manager would choose a replacement. **Senator Okuniewicz** stated he could not find the process for determining replacement outfitters in Idaho statute and requested Ms. Lawler provide this statute at a future date.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 24-3501-2201**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Vice Chairman Adams passed the gavel back to Chairman Burtenshaw.

ADJOURNED:

There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 2:45 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary