

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Wednesday, February 14, 2024

**TIME:** 3:00 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Ricks, Vice Chairman Schroeder, Senators Grow, Cook, Adams, Bernt, Trakel, Rabe, and Just

**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 Ricks** called the meeting of the Senate Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

**S 1302** **Senator Nichols** presented **S 1302**. She stated that this bill, the Working Animals Protection Act, protected the use of working animals in entertainment, exhibitions, education, agrotourism, and other businesses. **S 1302** prevented bans against such use of working animals. This legislation was in reaction to attempts by animal activist groups to enact bans against the use of horses for pulling carriages, rodeos, and other similar bans.

**DISCUSSION:** **Senator Trakel** asked whether this legislation, which prohibited the enactment or enforcement of any rule or regulation more restrictive than state law, prohibited local ordinances such as Caldwell had, limiting the number of chickens one could have in their yard. **Senator Nichols** replied that was not the intent. The legislation simply prohibited ordinances that banned businesses from using working animals for the purposes stated in lines 19 through 21. Similar legislation had been enacted in Oklahoma, Arkansas, and Texas.

**Senator Bernt** asked whether **S 1302** might have unintended consequences. **Senator Nichols** answered that there was that potential with any legislation. **Senator Bernt** stated that he understood that the original purpose of this legislation was to protect the use of horses to pull carriages. He asked why **S 1302** was not more specific in targeting that. **Senator Nichols** responded that they wanted to prohibit other bans such as the use of canines for certain purposes in law enforcement.

**Senator Just** expressed a concern that this bill took away local control to enact reasonable ordinances such as those restricting the number or type of animals one could have in their backyard.

**TESTIMONY:** **Dr. Jeff Rosenthal**, veterinarian and CEO of the Idaho Humane Society, cited a number of concerns with **S 1302**. He felt the language was too broad and would gut a vast number of local laws and ordinances governing limitations on the number or types of animals one could have, vaccinations, nuisance, zoning, leashes, and others, many of which had been in existence for many years. There was often no corollary state law on those issues which local governmental entities were able to enact based on local needs. In addition, the definition of "working animal" was too broad which made it difficult to determine whether an animal was a "working animal" for enforcement of animal regulations.

**DISCUSSION:** **Vice Chairman Schroeder** asked Dr. Rosenthal to provide examples of areas of local ordinances that had no state corollary. **Dr. Rosenthal** stated that most related to quality of life issues such as nuisance, zoning, and special use permits. **Vice Chairman Schroeder** noted that counties and cities often regulated the density of livestock and other animals per acre and asked Dr. Rosenthal to discuss that. **Dr. Rosenthal** responded that was beyond his purview and more of a zoning and planning issue.

**Senator Rabe** stated that this legislation was broadly drafted and asked whether any number of animals could be classified as "working animals." **Dr. Rosenthal** answered that the broad definition made it difficult for the Department of Agriculture to determine which were "working animals" for enforcement purposes.

**TESTIMONY:** **Mindy Patterson**, with the Calvary Group, testified regarding the attempts of animal rights activists to enact bans that prohibited the use of working animals in a variety of businesses (Attachment 1). She stated that the Working Animals Protection Act, which prohibited local governments from enacting bans against the use of working animals in various businesses, had been enacted in Oklahoma, Arkansas, and Texas. **Ms. Patterson** further stated that this legislation did not prohibit local governments from enacting ordinances relating to public health and safety or animal health and welfare.

**DISCUSSION:** **Senator Bernt** asked Ms. Patterson to provide any examples of attempts to ban the use of working animals in Idaho. **Ms. Patterson** cited a local ordinance prohibiting exotic animal exhibits enacted in Ketchum several years ago. **Senator Bernt** then asked whether Ms. Patterson was concerned about bans of use of K-9s in Idaho. **Ms. Patterson** said this legislation was a proactive attempt to prevent such bans.

**TESTIMONY:** **Scott Dorenkamp**, Livestock Program and Government Relations Manager, Professional Rodeo Cowboys Association, expressed a concern for the attempts by animal activist groups to ban the use of working animals for rodeos and other businesses in California and Colorado.

**DISCUSSION:** **Senator Bernt** asked whether Mr. Dorenkamp was concerned about local bans in Idaho against the use of horses in rodeos. **Mr. Dorenkamp** responded that this legislation was a proactive attempt to prohibit such bans in the future.

**TESTIMONY:** **Sara Westbrook**, with the Idaho Association of Counties, relayed their concerns regarding **S 1302**. Their first concern related to the language on lines 12 through 14 that, "No county, municipality, state agency, or political subdivision shall enact or enforce any ordinance, regulation, or rule that is more restrictive than state law or that terminates, bans, or effectively bans, by creating undue financial hardship, on the job use of working animals or a working animal enterprise." She argued that language would ban ordinances such as an ordinance in Lava Hot Springs which was used in the Ligertown situation in the nineties. This would also ban local ordinances regulating confined animal feeding operations (CAFOs). In another example, a Twin Falls ordinance was used to address a situation that involved neglected horses and dogs. **Ms. Westbrook** stated that local governmental entities were better able to address situations involving their community than the state.

**John Del Rio** provided a written statement, (Attachment 2). He further testified in person that the Working Animals Protection Act did not prevent local ordinances relating to the humane treatment of animals or animal control. He expressed concern for bans against the use of horses in rodeos and exotic bird businesses seen in other states.

**Russ Hendricks**, with the Idaho Farm Bureau Federation, supported **S 1302**. The American Farm Bureau supported the Working Animals Protection Act and was working to implement it in all 50 states. The agricultural industry relied on the use of working animals.

- DISCUSSION:** **Chairman Ricks** inquired whether this legislation would roll back local ordinances that had been in place for many years. **Mr. Hendricks** stated that was not their intent and they were willing to work with the Committee to amend the language to ensure that didn't happen.
- Senator Bernt** asked how this legislation affected the Idaho Farm Bureau. **Mr. Hendricks** referenced an attempt in the Idaho legislature several years ago to regulate the use of working dogs on ranches. This legislation protected that use of working animals.
- Senator Adams** asked whether the legislation the National Farm Bureau had supported in other states had been similar in intent or similar in content. **Mr. Hendricks** stated that he had not read the legislation in other states so he could not say whether that legislation was similar in content, but it was similar in intent.
- TESTIMONY:** **Tommy Elledge**, owner of a horse and carriage business, supported **S 1302**. He expressed concern for bans on the use of working animals such as horses to pull carriages and exotic birds in exhibits.
- Senator Rabe** asked if Kelley Packer, Executive Director, Association of Idaho Cities would testify regarding their position on this bill. **Ms. Packer** stated that their board had not had an opportunity to discuss **S 1302**, but she felt it was too broad and would affect many local ordinances that had been in place for a long time.
- Senator Nichols** concluded and stated that she had listened to all the concerns expressed and was willing to work on amendments to alleviate those concerns.
- MOTION:** **Senator Rabe** moved to hold **S 1302** in Committee. **Senator Just** seconded the motion.
- DISCUSSION:** **Senator Rabe** stated that there were significant issues with this bill and recommended taking time to have involvement by stakeholders, in particular, the cities and counties.
- SUBSTITUTE MOTION:** **Senator Trakel** made a substitute motion to send **S 1302** to the 14th Order of Business for possible amendment. **Senator Grow** seconded the motion.
- DISCUSSION:** **Senator Trakel** noted that a similar law in Arkansas defined working animals to include horse drawn carriages. The bill could also be amended to protect the ability of local governments to enact ordinances regarding public health and such.
- Chairman Ricks** stated that his preference was to hold the bill and take time to work with stakeholders.
- Vice Chairman Schroeder** argued that the definition of working animals was problematic. He expressed a concern that **S 1302** would prevent local ordinances such as limitations of the number of animals and cited a case he prosecuted involving such an ordinance.
- Senator Bernt** stated that he felt they should take several weeks to involve stakeholders.
- Senator Cook** expressed support for the original motion to hold **S 1302** in Committee and obtain public input.
- VOICE VOTE:** The substitute motion to send **S 1302** to the 14th Order of Business for possible amendment failed by **voice vote**.
- VOICE VOTE:** The original motion to hold **S 1302** in Committee passed by **voice vote**.
- S 1305** **Senator Nichols** presented **S 1305**. She explained that this legislation provided definitions related to urban agriculture as a regulatory framework. She indicated that she had worked with Idaho Farm Bureau on the language.

- DISCUSSION:** **Senator Rabe** inquired whether there were any implications to these definitions. **Senator Nichols** responded that there were no implications. **Senator Rabe** and **Senator Cook** expressed a concern about the language in the legislative findings that urban agriculture was a natural right and whether that would supersede the right of governmental entities or HOAs to enact ordinances or regulations. **Senator Nichols** explained that language was taken from the Idaho Farm Act which was enacted in 1981.
- TESTIMONY:** **Todd McDonald**, a resident of Meridian, Idaho, spoke in support of the bill. He was concerned about HOAs and governmental entities enacting regulations and ordinances preventing people from producing some of their own food. He cited an example of his own HOA overriding the decision of homeowners to keep a limited number of chickens.
- DISCUSSION:** **Senator Cook** asked whether this bill superseded regulations and ordinances enacted by HOAs and governmental entities. **Mr. McDonald** said that he was willing to help draft language if there were concerns that the bill was too broad.
- TESTIMONY:** **Kelley Packer**, Executive Director, Association of Idaho Cities, testified that their board had not yet taken a position on **S 1305**, but the staff was going to recommend opposing it. She was concerned about the legislative findings language that was often looked to in judicial proceedings to determine legislative intent. She was specifically concerned about the language on line 24 that urban agriculture was a natural right and felt that stripped local authorities of their ability to enact regulations and ordinances granted on line 17.
- DISCUSSION:** **Senator Cook** asked if the removal of the language in lines 23 through 25 would alleviate her concerns. **Ms. Packer** replied that it would.
- TESTIMONY:** **Senator Nichols** concluded her remarks and thanked those who had testified for their comments. She further stated that she was open to amendments to alleviate those concerns.
- MOTION:** **Senator Rabe** moved to hold **S1305** in Committee. She expressed a concern regarding statutory definitions that were not linked to other statutes. **Senator Just** seconded the motion.
- SUBSTITUTE MOTION:** **Senator Adams** made a substitute motion to send **S 1305** to the 14th Order of Business for possible amendment. **Senator Bernt** seconded the motion.
- DISCUSSION:** **Senator Trakel** noted that the Legislative Drafting Manual stated that legislative findings did provide guidance to courts in construing legislative intent. However, the manual also stated that the declarations were not complete and the courts must examine the law and not solely statements of legislative intent.
- Senator Cook** asked Senator Nichols to respond to the concerns of Senator Rabe and Senator Trakel. **Senator Nichols** responded that the right to grow one's own fruits and vegetables should be a natural right and that she was trying to be proactive in protecting that right.
- VOICE VOTE:** The substitute motion to send **S 1305** to the 14th Order of Business for possible amendment passed by **voice vote**.
- H 445** **Representative Cannon** presented **H 445**. **Representative Cannon** explained that this bill stopped the accrual of interest owed on a tax deficiency during two periods of time during the audit and appeals process. The first period when interest did not accrue was between the notice of audit by the Idaho State Tax Commission (Commission) and the notice of tax deficiency by the Commission. The second period was between the filing of a protest by the taxpayer and the final determination of tax deficiency by the Commission.

**MOTION:** **Senator Cook** moved to send **H 445** to the floor with a **do pass** recommendation. **Senator Adams** seconded the motion. The motion passed by **voice vote**.

**PRESENTATION:** Page Graduation: Owen Allen. **Chairman Ricks** thanked Mr. Allen for his service to the Committee and asked him what his future plans were. **Mr. Allen** stated that he wanted to serve his community, perhaps as a lawyer, a legislator, or as a member of boards. He wanted to help people have a voice and access government.

**Senator Cook** asked whether his view on what he wanted to do in the future had changed as a result of serving as a page. **Mr. Allen** replied that his desire to become a lawyer or serve his community in some other manner, had become stronger.

**Senator Just** thanked Mr. Allen for persevering through adversity with an injured leg. He noted that 25 percent of the population was disabled at some time and commented that was a lesson Mr. Allen had learned.

**Senator Adams** asked whether Mr. Allen's perspective on anything had changed as a result of serving as a page. **Mr. Allen** responded that he realized that legislators served part time and had full time jobs and normal lives outside of the legislature. He appreciated their hard work.

The Committee presented Mr. Allen with several letters and gifts.

**ADJOURNED:** There being no further business at this time, **Chairman Ricks** adjourned the meeting at 4:52 p.m.

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Senator Ricks  
Chair

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Meg Lawless  
Secretary