

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 01, 2021

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Vick, Vice Chairman Johnson, Senators Bair, Heider, Patrick, Guthrie, Burtenshaw, Stennett, and Rabe

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.

CALL TO ORDER: **Chairman Vick** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of January 18, 2021. **Senator Rabe** seconded the motion. The motion carried by **voice vote**.

Senator Heider moved to approve the Minutes of January 20, 2021. **Senator Burtenshaw** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENTS: **Vice Chairman Johnson** moved to send the Gubernatorial appointment of Don Ebert to the Idaho Fish and Game Commission (Commission) to the floor with recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Vice Chairman Johnson will be the floor sponsor.

Senator Stennett moved to send the Gubernatorial appointment of Gregory Cameron to the Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Senator Anthon will be the floor sponsor.

Senator Guthrie moved to send the Gubernatorial appointment of Ron Davies to the Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Guthrie will be the floor sponsor.

S 1005 **Water District Fees.** **Senator Patrick** presented **S 1005** and said when water is diverted and assessed on one water district but is conveyed and rediverted within a second water district, the second district may levy a fee instead of an assessment for the water that is rediverted. Any authorized fees that are levied are not considered assessments and are not part of a water user's credentials for voting within the second water district.

Paul Arrington, Executive Director, Idaho Water Users Association, said the Idaho statute allows the Idaho Department of Water Resources to divide the state up into water districts. Each water district is then charged with the management and administration of water within its geographic boundaries. These actions include monitoring water; measuring water; administering it into priority; maintaining the system; keeping records; managing employee compensation; and, in some districts, cloud seeding.

Mr. Arrington said each year the district prepares a budget of the various costs, divides them among the water users, and that forms the assessment that the water district is going to charge. This bill is seeking to answer who shares the cost if water is put into one district, goes into a river, then is put into a second district. **S 1005** allows the second water district to charge a fee instead of an assessment.

Mr. Arrington said if a fee, rather than an assessment is paid, the water users do not have voting rights in that district. Water users only pay for the benefits they receive, and if water is passed through one water district to get to another, those members do not pay an assessment.

Alan Hansten, General Manager, North Side Canal Company, said they support **S 1005**. He provided a map, which was projected on a screen, showing rivers and canals distributing water to different water districts and water users. Within District 37, North Side Canal Company has three water rights – two stock water rights and one irrigation water right – and also oversees water through ten miles of the Big Wood River. It has been assessed about \$60,000 for administration costs and also for cloud seeding, for which they have received no benefit.

Mr. Hansten said there was an issue about 100 years ago between North Side Canal Company and District 37 that got dropped and hadn't been brought up until two years ago. It was an unfair situation for North Side Canal Company which paid more than its fair share, but had greater voting power, according to Mr. Hansten. This legislation would provide opportunities to ensure water users are not double-charged for the same water.

DISCUSSION:

Senator Stennett asked for more clarification regarding the inequity of North Side Canal Company. **Mr. Hansten** stated that this amendment would correct the inflated voice that North Side Canal Company was granted in voting rights concerning issues that only pertain to Water District 37 and paying for administration matters that only concern water rights in District 37.

Vice Chairman Johnson inquired as to what amount the fee should be, if not \$60,000. **Mr. Hansten** replied the North Side Canal Company is trying to set laws in place that are fair. **Senator Burtenshaw** also questioned the \$60,000 fee. **Mr. Hansten** indicated he had talked with District 37 Water Master Kevin Lakey, and between them it was assumed the fee would be between \$10,000 and \$20,000.

TESTIMONY:

Monica McKinley, representing herself, testified in opposition to **S 1005**. **Ms. McKinley** stated she lives in Meridian and is the water master for the lateral in her neighborhood. She explained that ditch riders are not paid and are expected to maintain the main ditches and adjust the water flow. As for cloud seeding in Blaine County, **Ms. McKinley** said the ski resort in Sun Valley should bear the burden of the cost instead of the water users. She asked the Committee to carefully consider if the fees are reasonable and if they are necessary. **Ms. McKinley** also stated this is a Blaine County issue and it could affect the rest of the state.

DISCUSSION:

Vice Chairman Johnson asked Senator Patrick to respond to Ms. McKinley's remark about the issue affecting other areas in the state, not just District 37. Senator Patrick deferred the question to Mr. Arrington. **Mr. Arrington** said this bill mandates that water users in a district can vote to follow a negotiated process. Next, a resolution is passed, as well as a budget, and from that, they will know what the end result will be.

Senator Stennett said she is involved with Water District 37 and inquired as to the concerns. **Mr. Arrington** said the concern is the possibility of rising costs.

MOTION: **Senator Bair** moved to send **S 1005** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. **Senator Guthrie** said he would support the bill but with some concerns, such as getting the water shrink-free and not hearing a lot of opposition from the affected parties. **Senator Stennett** indicated that she had not been notified about significant opposition and will support the bill. The motion carried by **voice vote**. Senator Patrick will be the floor sponsor.

PASSED THE GAVEL: Chairman Vick passed the gavel to Vice Chairman Johnson.

INTRODUCTION: **Vice Chairman Johnson** welcomed Jess Byrne, Director, Department of Environmental Quality (DEQ).

DOCKET NO. 58-0000-2000F **Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule. Mr. Byrne** said there are 12 chapters, each of which is an existing rule that was previously reviewed by the Legislature. He said DEQ's approach was in line with the Red Tape Reduction Act from Governor Little.

Mr. Byrne stated that during summer 2019, DEQ specifically reviewed the rules to identify and eliminate ones that were obsolete. DEQ will continue that review as part of a zero-based regulatory executive order, he said. Included in the Omnibus Rule Docket are six fee rule chapters that do not have any revisions. They are:

- IDAPA 58.01.07 Rules Regulating Underground Storage Tank Systems
- IDAPA 58.01.08 Idaho Rules for Public Drinking Water Systems
- IDAPA 58.01.09 Rules Regulating Swine Facilities
- IDAPA 58.01.11 Ground Water Quality Rule
- IDAPA 58.01.14 Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services
- IDAPA 58.01.18 Idaho Land Remediation Rules

Tiffany Floyd, Air Quality Division Administrator, DEQ, presented an overview of incorporation by reference for IDAPA 58.01.01 Rules for the Control of Air Pollution in Idaho. A public notice appeared in the September 16, 2020, Administrative Bulletin and a public hearing was held on October 7, 2020. No oral or written comments were received. This rule docket was approved by the Board of DEQ on November 5, 2020.

Michael McCurdy, Waste Management and Remediation Division Administrator, DEQ, said there are two new rules since the last annual incorporation by reference. The first one added aerosol cans to the universal waste regulations. Aerosol cans typically have flammable propellant and can contain other constituents that characterize them as hazardous waste. With this new rule, businesses can manage their waste aerosol cans under the streamlined universal waste regulations instead of the full hazardous waste regulations. The second rule is management standards for hazardous waste pharmaceuticals and an amendment to the PO75 listing for nicotine. This rule is a tailored set of management standards specifically designed to reduce the complexity of hazardous waste regulations for industrial companies that manage pharmaceutical and retail waste. It applies only to hazardous waste pharmaceuticals and the entities that generate them. These standards clarify generator size, accumulation limits, training requirements, and disposal options for pharmacies and retailers. **Mr. McCurdy** stated the rule is neither broader in scope nor more stringent than federal regulations and does not enact an activity that is not required by the federal government.

Mr. McCurdy discussed IDAPA 58.01.06 Solid Waste Management Rules. This was initiated in response to the Red Tape Reduction Act to remove language as well as evaluate and modify restrictive word usage without changing the meaning or the content of that law. Various sections throughout the solid waste management rules were identified for deletion, simplification, or consolidation with other sections. A public hearing was held October 7, 2020, and no comments were received.

Mr. McCurdy said there were four areas that essentially repeated the exact same wording and it was condensed into one section. Those changes resulted in the reduction of 1,547 words, including 44 restricted words, and eliminated 4 pages of rules. The rulemaking was administrative in nature.

**PASSED THE
GAVEL:**

Vice Chairman Johnson passed the gavel to Chairman Vick.

ADJOURNED:

There being no further business at this time, **Chairman Vick** adjourned the meeting at 2:51 p.m.

Senator Vick
Chair

Juanita Budell
Secretary