

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 28, 2022

TIME: 8:00 A.M.

PLACE: Room WW55

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

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: **Chairwoman Lodge** called the Senate State Affairs Committee (Committee) to order at 8:02 a.m.

RS 29619 **UNANIMOUS CONSENT REQUEST** for the Senate Health and Welfare Committee relating to the Extended Employment Services Program repealing Chapter 63, Title 33, Idaho Code, and adding a new chapter to establish the Extended Employment Services Program in the Division of Medicaid.

Senator Kevin Cook, District 30, explained that Extended Employment Services (EES) was unique to Idaho and provided for job coaching, support, vocational training and choice of work environment that best meets the needs of individuals with significant disabilities. EES was fully funded by state dollars; no federal money was involved. The focus of **RS 29619** was to move the management of EES to the Department of Health and Welfare, Division of Medicaid, and to codify the services they provide.

Senator Stennett and **Senator Burgoyne** stated their concerns that this legislation was a duplicate of former legislation. This is a unanimous consent request.

MOTION: **Senator Winder** moved to send **RS 29619** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**. Senator Stennett and Senator Burgoyne were recorded as voting nay.

RS 29640 **RELATING TO BALLOT MEASURES** to provide for the numbering of ballot measures.

Senator Doug Ricks, District 34, said that **RS 29640** allowed for consecutive numbering for voter approved ballot initiatives in a general election beginning with the number eight which shall be unique and not reused in subsequent years.

Vice Chairman Guthrie asked if, after several elections and a number might be 27, would it confuse people into thinking that the numbers from 1-26 might be missing. **Senator Ricks** acknowledged that it may be confusing but, currently, if someone was checking on a proposition, it could be any number of the same proposition since the numbers were repeated each year. Luckily, Idaho did not have many ballot initiatives. Using a number once made it unique. It would be made clear that different numbers would be used each year.

MOTION: **Vice Chairman Guthrie** moved to send **RS 29640** to print. **Senator Lee** seconded the motion.

Senator Burgoyne stated two concerns. 1) The reasoning behind starting with No. 8; 2) Idaho usually didn't refer to these ballot measures as propositions but by names such as the "1974 Sunshine Initiative." He also had a concern if the number of propositions increased.

VOICE VOTE: The motion carried by **voice vote**.

RS 29675 **RELATING TO THE FETAL HEARTBEAT PREBORN CHILD PROTECTION ACT** to revise provisions regarding attorney's fees and remove a provision related to affirmative defenses.

Blaine Konzatti, President, Idaho Family Policy Center, stated that **RS 29675** was a trailer bill to **S 1309** which would allow the courts to award attorney's fees and costs to prevailing defendants who complied with the law. The legislation was a rewrite of a previous RS that contained an error related to the effective date as found by the Secretary of the Senate. That error has been corrected. That was the only change in **RS 29675**.

Senator Lee asked why this couldn't have been combined with **S 1309** and made it all one bill. **Mr. Konzatti** responded that they were trying to avoid another full public hearing on **S 1309** to keep it moving through the process. **Senator Lee** stated her agreement with Madam Secretary. **Mr. Konzatti** said that they also agreed with what Madam Secretary found. That was the reason for bringing the bill.

MOTION: **Senator Anthon** moved to send **RS 29675** to print. **Senator Winder** seconded the motion.

Senator Burgoyne will be voting no. This legislation has been about an idea and hasn't been about properly executing the idea.

VOICE VOTE: The motion carried by **voice vote**. Senator Stennett and Senator Burgoyne were recorded as voting nay.

S 1339 **RELATING TO PUBLIC RECORDS** to amend and add to existing law to provide that public records requests be made to the custodian of records, to provide for the Legislative Services Office to be designated as the custodian for legislative records, and to revise terminology.

Senator Todd Lakey, District 12, stated **S 1339** clarified the public records request process, benefited the public seeking a response to a records request, and aided elected officials who received thousands of emails to respond to records requests. **Senator Lakey** went through the bill explaining the changes in the definitions, the verbiage that was removed, who the designated custodian would be, and how they would function. Input was received from the press and trial lawyers to develop language that was acceptable.

Senator Burgoyne noted that the section regarding the Legislature could be viewed as having a different methodology than it did before but there had been some specific issues and problems arise with respect to public records. In his opinion, this legislation would provide a vehicle that was likely to result in greater transparency and responsiveness to the public.

MOTION: **Senator Burgoyne** moved to send **S 1339** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

S 1341 **RELATED TO BALLOTS** to amend existing law to revise provisions regarding when election results may be released to the public.

Jason Hancock, Deputy Secretary of State, explained that current law required county clerks to wait until all the polls in the State had closed before they could

report to the Secretary of State (SOS) regardless of the type of election. The changes in **S 1341** allowed the county clerks to report any time after the polls had closed as long as there was nothing on their ballot that was in the other time zone. **Mr. Hancock** explained that only two, or three in a presidential election cycle, out of eight different election dates would cross the time zone boundary. Most smaller elections were for school levies or city elections.

Chairwoman Lodge asked if everyone who signed up to vote in the precinct had voted, can they report earlier than eight o'clock? **Mr. Hancock** said they could not close earlier because there was always election day registration and that went until eight p.m.

MOTION: **Vice Chairman Guthrie** moved to send **S 1341** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

S 1342 **RELATING TO ALCOHOLIC BEVERAGES** to amend existing law to provide an exemption from a certain requirement and to provide a requirement for a license issued to a theater.

Senator Anthon introduced Jason Scholer to present **S 1342**.

Jason Scholer, Senator Anthon's legal extern, explained there were no changes since the printing of this bill. **S 1342** did two things: 1) it allowed cities one year after a city acquires a building that may come with a liquor license to actually sell liquor. This allowed a buffer period before actual use and when legal requirements in code would become effective. This was especially applicable during city revitalization of downtown areas that may need renovations. Current administrative rules were arduous requiring liquor sales six days a week, eight hours a day. This did not exempt those cities from the requirement, it only gave them time to get established. 2) This bill allowed historical theatres to use a liquor license twice a year to be in compliance with actual use requirements and administrative code. The historical theatres did not have daily use as a general rule so this allowed them to be compliant in the event they get a liquor license.

DISCUSSION: **Senator Stennett** asked for clarification about the requirements in case there was a shutdown that was out of their power, like COVID. Also, was the year transition for a liquor license applicable to historic theatres. **Mr. Scholar** said once the year was up, the code and administrative rules would be applicable. Historic theatres had different requirements.

Vice Chairman Guthrie posed a two part question: 1) If a city buys a building with a liquor license, do they pay a premium for that license and would it be a separate asset; and, 2) could they then keep the building and sell the license? **Mr. Scholar** deferred to Senator Anthon. **Senator Anthon** responded with an example of an incident of a town in his district where the building was separate from the liquor license as assets and selling liquor was not the intent of the city. This bill provided a buffer to provide time to resolve those types of situations. He asked if that answered the question. **Vice Chairman Guthrie** responded in the affirmative and asked if this was an anomaly. **Senator Anthon** said it was not. They had discovered several similar incidents. This did not happen very often but as more cities did revitalization, it was likely to occur more often.

MOTION: **Senator Winder** moved to send **S 1342** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

HJM 5 **A HOUSE JOINT MEMORIAL REGARDING TAXATION** states findings of the Legislature and requests that Governor Jay Inslee of Washington oppose and veto a proposed tax on fuel exports from Washington to Idaho.

Senator Harris introduced **HJM 5**. He said that Washington was fast tracking a bill that would initiate an export tax of six percent on diesel, gas, and jet fuel exported from Washington to Idaho. This proposal would cost Idahoans more at the pump and increase costs for agriculture, mining, and other industries. There was also a question of the constitutionality of this proposal in Article One, Section Eight, of the Dormant Commerce Clause. **HJM 5's** message to the governor of Washington was to oppose Washington's proposed law.

Senator Winder commented that this was a reaction to what Washington was trying to do even though a few of their legislators were starting to say this was a bad idea. However, once something like this started, it opened the door to retaliation.

Senator Burgoyne stated his belief that what Washington was proposing is plainly unconstitutional under the Commerce Clause of the Federal Constitution.

Senator Heider asked if the statement "the Legislature strongly opposes the imposition of the tax" is strong enough. **Senator Harris** stated he thought the legislation was strong enough.

MOTION: **Vice Chairman Guthrie** moved to send **HJM 5** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Approval of the Minutes** for February 21, 2022.

MOTION: **Senator Anthon** moved to accept the minutes of February 21, 2022. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:45 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary