

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, February 09, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senators Guthrie and Okuniewicz

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 31185 **Relating to Invasive Species. Senator Burtenshaw** stated this legislation tightened statute related to controlling quagga mussels in the state of Idaho. **RS 31185** amended Idaho Code § 22-1904 to further define "conveyance" as "retail or wholesale products, or water known to carry or have a reasonable possibility of carrying invasive species." This expanded inspection for invasive species to include anything known to have carried water or to have a reasonable possibility of carrying invasive species. It also created a new section of code requiring immediate removal of vegetation and water drainage from conveyances. It required nonresidential vehicles to carry an invasive species sticker and to be inspected at a watercraft station prior to launch. It provided up to twenty percent of the Idaho Invasive Species Fund annual revenue to counties, cities, and other local entities to reimburse the costs necessary to operate watercraft inspection stations.

MOTION: **Senator Harris** moved that **RS 31185** be sent to print. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

RS 31220 **Relating to Public Utilities. Norman Semanko**, attorney, Parsons Behle and Latimer, explained this legislation clarified that the jurisdiction of the Idaho Public Utilities Commission (Commission) did not include corporations or others owning, controlling, or operating a water system which delivered water to a single entity that was not subject to regulation by the Commission. It also confirmed that homeowners associations, cooperative associations, and water districts were not subject to regulation by the Commission.

MOTION: **Senator Schroeder** moved that **RS 31220** be sent to print. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

**DOCKET NO.
20-0305-2301**

Navigable Waterways Mineral Leasing in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. No further testimony was taken. **Eric Wilson**, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL) presented for further discussion. **Docket No. 20-0305-2301** was presented in Committee on February 5, 2024 and testimony was heard at that meeting. **Mr. Wilson** addressed some of the concerns that were raised at the earlier meeting. He referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, page 151. He explained there was a statute change that occurred in 2020, which required that all rents be treated as prepaid royalties. In section 030.01 the minimum annual rental increased from \$160 to \$500, but the minimum annual royalty in section 030.02, where the commercial lessee paid \$500 per year and all other lessees paid \$340 per year, was deleted. The original \$160 minimum annual rental added to the deleted \$340 minimum annual royalty equaled \$500. This simplified the rules, incorporated the statute change, and did not increase rents overall.

DISCUSSION:

Senator Den Hartog asked if there was a maximum annual rental. **Mr. Wilson** responded that the annual rental depended on the type of lease, the size of the property, and the activities that would be taking place on the property, so annual rentals could be over \$500. **Senator Taylor** asked for the difference between exploratory and casual as noted on page 150, section 016.04. **Mr. Wilson** responded the definition of casual exploration was in statute in the mineral leasing chapter, and this meant using dredges that were five inches or less in intake diameter and operated in navigable rivers.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 20-0305-2301**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0101-2301**

Rules of Practice and Procedure Before the State Board of Land Commissioners (ZBR Chapter Rewrite) - Proposed Rule. **Dustin Miller**, Director, IDL, referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 59. He explained these rules govern the practice and procedure in contested cases before the State Board of Land Commissioners and IDL. He explained that following Executive Order 2020-01, Zero-Based Regulation, this rule chapter was scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session. During the 2022 legislative session, House Bill 629 created the Office of Administrative Hearings (OAH), and IDL paused rulemaking on this chapter until OAH was operational. He provided a summary of the negotiated rulemaking process for this chapter. IDL worked closely with the Office of Administrative Rules, the Office of Administrative Hearings, and the Office of the Attorney General to dramatically simplify this chapter by incorporating the Attorney General's rules by reference. After OAH promulgated their rules of practice and procedure, the Idaho State Board of Land Commissioners and IDL would automatically default to using OAH rules for contested cases.

MOTION:

Senator Schroeder moved to approve **Docket No. 20-0101-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0501-2301**

Rules Pertaining to the Recreational Use of Endowment Land (New Chapter) - Proposed Rule. **Todd Wernex**, Recreation Program Manager, IDL, referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 153. He explained changes to this chapter were the result of Senate Bill 1049, which passed in 2023. Senate Bill 1049 required rulemaking to specify prohibited activities that were subject to a warning ticket for minor first offenses, with second violations under the statute being punished with an infraction and \$250 fine. He provided a summary of the negotiated rulemaking process for these rules. He noted IDL received several written comments and good participation at their meetings. They engaged with the Idaho Cattle Association, Idaho Recreation Council, Idaho Outfitters and Guides, Idaho Fish and Game, other groups, and private citizens.

DISCUSSION:

Senator Burtenshaw asked if the requirement noted in section 020.05.a on page 156 for solid human waste to be buried in a hole at least six inches deep was enough. **Mr. Wernex** responded that this was common practice for the Forest Service and other land management agencies. **Senator Burtenshaw** referred to section 020.05.b on the same page and asked how someone was allowed to build a septic system on endowment land when the statute stated restroom facilities must be temporary. **Mr. Miller** responded that this operation, which was a glamping operation near Island Park, was authorized under a land use permit. Working with the health district, it was determined that given the number of people expected to utilize that facility, a septic system was necessary. In response to a follow up question from Senator Burtenshaw, **Mr. Miller** confirmed sections 020.05.a and 020.05.b addressed temporary camping for 14 days or less, not commercial operations. **Senator Schroeder** asked if a member of the general public could easily find a permit and compare the parameters listed in the permit with what was going on the ground. **Mr. Miller** responded that those documents were available upon request of anyone that wanted to see them.

TESTIMONY:

Peyton Nunes, Benn Brocksome and Associates, representing Idaho Sportsmen, testified in support of **Docket No. 20-0501-2301**. She stated that Idaho Sportsmen submitted a letter of support and participated in all of the negotiated rulemaking.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 20-0501-2301**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

ADJOURNED:

There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:05 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary