

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 08, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, Wintrow, and Ruchti

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 Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of February 28, 2024. **Senator Harris** seconded the motion. The motion passed by **voice vote**.

RS 31390C1 **Relating to Elections.** **Senator Winder** stated that **RS 31390C1** was a draft for a presidential primary election and allowed the public to express their candidate preference.

MOTION: **Senator Anthon** moved to send **RS 31390C1** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

RS 31545 **Relating to a Concurrent Resolution of the Approved Administrative Rules of the Idaho Transportation Department.** **Senator Den Hartog** stated **RS 31545** was a concurrent resolution representing the rules adopted and agreed on by the Senate Transportation Committee and with the House Transportation and Defense Committee.

DISCUSSION: **Senator Winder** stated concurrent resolutions **RS 31545** and **RS 31547** were received as a unanimous consent that had been requested by the committee for print.

MOTION: **Senator Harris** moved to send **RS 31545** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**

RS 31547 **Relating to a Concurrent Resolution of the Approved Administrative Rules of the Idaho State Police.** **Senator Den Hartog** stated this resolution reflected the effort of the Senate Transportation Committee, which adopted a rule that the House did not fully support, and that an ongoing collaboration was still under discussion.

DISCUSSION: **Senator Wintrow** asked what the disagreement was about. **Senator Den Hartog** responded stating the concern came from the Idaho State Police who wanted to keep the rule aligned with the Federal definitions.

MOTION: **Senator Harris** moved to send **RS 31547** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

RS 31583 **Relating to Emergency Medical Services.** **Senator Harris** stated that with challenges facing the Emergency Medical Services (EMS) system statewide, **RS 31583** allowed the EMS Bureau to relocate from the Department of Health and Welfare to the Office of Emergency Management and to begin the process of designating the EMS system as an essential service in the State of Idaho.

DISCUSSION: **Senator Winder** asked why the legislation came to the Committee so late in the session. **Senator Harris** stated the issues with the involved agencies presented a difficult process of negotiation and compromise.

MOTION: **Senator Lee** moved to send **RS 31583** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

RS 31602 **Relating to Social Media Companies.** **Senator Toews** stated that **RS 31602** safeguarded children from data collection on social media platforms by permitting the parents to take the lead in monitoring these situations. **Senator Toews** stated this removed an undue burden from social media companies and created a balance between these companies and parents.

MOTION: **Senator Anthon** moved to send **RS 31602** to print. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

RS 31578 **Relating to a Concurrent Resolution Approving Pending Rules of the State Board of Education and the State Board of Career Technical Education.** **Senator Toews** stated this was the concurrent resolution from the Board of Education Committee of the Senate and the House adopting all rules.

DISCUSSION: **Senator Wintrow** asked if there were any conflicts adopting these rules. **Senator Toews** stated there were concerns regarding wording within rules, but the committees were able to agree and concur.

MOTION: **Senator Harris** moved to send **RS 31578** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 31579 **Relating to a Concurrent Resolution Approving Pending Rules of the State Board of Education.** **Senator Toews** stated this was the concurrent resolution from the Board of Education Committee of the Senate and the House adopting the next set of rules.

DISCUSSION: **Senator Wintrow** asked if there had been any conflicts adopting these rules. **Senator Toews** stated there were no concerns.

MOTION: **Vice Chair Bernt** moved to send **RS 31579** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Guthrie passed the gavel to Vice Chairman Bernt.

RS 31600 **Relating to Firearms on School Property.** **Chairman Guthrie** stated that **RS 31600** allowed school district employees to conceal carry on school property to promote safety in schools. He highlighted that peace officers on or off duty were allowed to carry, and that employees of the district could carry, but were required to obtain a concealed carry permit with annual training. **Chairman Guthrie** also added that school boards had local control of policies.

MOTION: **Senator Anthon** moved to send **RS 31600** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

HCR 29 **RULE REJECTION - DEPARTMENT OF ADMINISTRATION - States findings of the Legislature and rejects certain rules of the Department of Administration relating to Rules of the Division of Purchasing.** **Chairman Guthrie** stated **HCR 29** outlined and clarified the role of negotiation during the procurement process. **Chairman Guthrie** also stated that there was concern during a past procurement process, that involved intense negotiation, which had been included in a rule and not in statute.

DISCUSSION: **Senator Winder** asked if this legislation was retroactive due to the dispute between Blue Cross of Idaho and Regence Blue Shield of Idaho. **Senator Guthrie** stated that **HCR 29** was not retroactive to this case because the contract had already been awarded.

Senator Anthon stated that if the effective date was not until July 1, 2025, there was no way to undo previous action. **Chairman Guthrie** stated there was frustration regarding the use of the Invitation to Negotiate (ITN) process, as it was initially employed without being explicitly authorized in statute. This led to the decision to remove those sections from the rule. If there were unintended consequences, such as collateral damage from deleting entire sections, those specific portions that inadvertently impacted the intent of addressing ITN might be reintroduced as a temporary rule.

Senator Wintrow asked for clarification if the highlighted portion in the handout represented rules that were not supported by statute and those specific rules were removed. **Chairman Guthrie** stated that because a whole section was deleted and there could be something tied to those deletions, some rules would need to be either addressed or reintroduced as temporary rules. **Senator Wintrow** asked if something was inadvertently deleted, would an agency be able to operate going forward. **Chairman Guthrie** stated yes, temporary rules could be introduced at any time.

Senator Lee asked if this request was in line with statute. **Chairman Guthrie** stated the inclusion of the Legislature's authority to review rules was embedded in the Constitution, and rules became as lawful as the statutes they proposed to support; therefore, it was appropriate for the evaluation of these rules.

Senator Winder commented it was commendable that the drafters and the House followed through on this commitment, providing specific reasons for rejection and detailing the sections they deemed improper for this legislation.

MOTION: **Senator Winder** moved to send **HCR 29** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Bernt passed the gavel to Chairman Guthrie.

H 486 **VETERANS - Amends existing law to revise provisions regarding the succession to property of deceased residents of veterans homes.**
Representative Allgood stated that **H 486** outlined the process and made updates to how the Idaho Division of Veterans Services oversaw the distribution of personal property in the event of the death of a veteran residing in a veterans home. **Representative Allgood** yielded his time to Mark Tschampl.

TESTIMONY: **Mark Tschampl**, Director, Idaho Division of Veteran Services, stated the update made in **H 486** was in alignment with the Idaho unclaimed property law in the case where there was no legal will and no known next of kin for a veteran who passed away in a veterans home.

MOTION: **Senator Winder** moved to send **H 486** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

H 607 **PUBLIC BUILDINGS AND WORKS - Adds to existing law to establish a procedure for bidders to challenge an administrator's decision under certain circumstances.** **Senator Den Hartog** stated **H 607** established a formal process for challenging decisions on State construction projects, specifically in the context of public works construction. She remarked that the need for such legislation arose when an Idaho contractor lost a major design-build project to an out-of-State company and discovered there was no avenue for appeal. In response, a policy was implemented to allow unsuccessful bidders to challenge decisions, but it was intended as a temporary solution. **Senator Den Hartog** stated **H 607** codified this policy, making it a permanent process; however, there was still language and clarifications that needed to be addressed, and she recommended sending **H 607** to the 14th Order for possible amendment.

DISCUSSION: **Senator Winder** commented that he hoped there would be clarification regarding the 25 percent protest bond during the amendment process.

TESTIMONY: **Sean Schupack**, Idaho Associated General Contractors spoke in favor of **H 607**. **Mr. Schupack** stated there were two areas for improvement within **H 607**. **Mr. Schupack** stated the first concern was the protest bond, emphasizing the need for clear definition and inclusion in the legal code. The proposed amendment specified valid reasons for using the protest bond, such as cost fluctuations in materials. **Mr. Schupack** stated the second point aimed to restrict challenges to only the primary project bidder, citing past instances of sub-tier challenges that caused substantial delays and financial losses for the State.

MOTION: **Senator Anthon** moved to send **H 607** to the **14th Order of Business** for possible amendment. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

S 1403 **PLANNING AND ZONING - Amends existing law to revise provisions regarding comprehensive plans and areas of impact.** **Senator Lakey** stated **S 1403** emphasized legislative intent, clarified jurisdictional boundaries between cities and counties, and defined areas of impact as anticipated growth zones that cities planned to annex. **Senator Lakey** stated **S 1403** outlined the process for establishing, adjusting, or confirming these areas and involved public hearings, notifications, and collaboration between cities and counties in setting criteria for determining impact areas. He remarked **S 1403** also outlined disputes, with an expedited review in case of disagreement.

DISCUSSION: **Senator Wintrow** asked for clarification of what happened in the event there was conflict between a city and county. **Senator Lakey** stated that cities had authority within their limits, while the county held ultimate decision-making power outside city boundaries. He remarked that in cases of disagreement or failed negotiations, the county's decision prevailed, with a provision for a court process to review the decision's fairness and rationality.

Senator Wintrow asked for further clarification on the expansion to two miles instead of one mile and asked for guidance on what the best practice was when expanding. **Senator Lakey** stated some cities expanded their impact areas beyond reasonable growth expectations, so to address this, the definition of impact areas focused on where growth was reasonably expected in the near future. **Senator Lakey** also stated the distance was extended from one to two miles, but cities were allowed the flexibility to revert to a one-mile limit after the initial five-year period, providing a more adaptable approach.

- TESTIMONY:** **Kristi Crookham** testified in opposition to **S 1403**. **Ms. Crookham** stated that although there were many aspects of the legislation that would be beneficial, there was not enough representation from the public and those involved in the industry. **Ms. Crookham** requested an interim committee be put in place to bring together stakeholders, including experts and those directly affected by the law, to provide a more informed perspective during the drafting of **S 1403**.
- DISCUSSION:** **Senator Bernt** asked Ms. Crookham which details of the bill she had concerns with. **Ms. Crookham** stated local city and county employees were overworked facilitating developer requests, and as annexations occurred, more farmland was taken by developers.
- TESTIMONY:** **Seth Grigg**, Idaho Association of Counties, spoke in favor of **S 1403**. **Mr. Grigg** stated the legislation clarified county ordinance authority when establishing an area of impact, emphasizing the distinction between city and county ordinance authority within and outside corporate boundaries. He remarked that the planning was viewed as beneficial for agricultural communities and provided clarity on urban growth boundaries.
- DISCUSSION:** **Chairman Guthrie** asked if the counties had any issue with the two mile radius, and if Mr. Grigg could explain why or why not. **Mr. Grigg** stated no, it was deemed in the county's interest for developments to occur through the annexation process rather than in the unincorporated areas as it resulted in better management. He remarked that some jurisdictions had expansive boundaries extending 3 to 5 miles, where counties were not equipped to handle many urban-style services. He stated that **S 1403** structured a two-mile buffer which allowed for growth within that range, with provisions for expansion through annexation.
- TESTIMONY:** **Patricia Nilsson**, American Planning Association, testified in opposition to **S 1403**. **Ms. Nilsson** asked for a consideration to update the Local Land Use Planning Act for the State of Idaho, which was a more effective way to address these concerns. **Ms. Nilsson** also stated **S 1403** had a negative effect on property owners' rights.
- TESTIMONY:** **Ken Burgess**, Idaho Home Builders Association, spoke in favor of **S 1403**. He stated there were instances where certain cities had extended their areas of impact over several miles; however, these same cities denied development applications in those areas due to challenges in providing essential services like sewer and water.

Written testimony in opposition to **S 1403** appears in Attachment 1.

A letter in opposition to **S 1403** from the American Planning Association appears in Attachment 2.

- DISCUSSION:** **Senator Anthon** asked if the bill addressed the consideration of utilities and the capacity to extend services in determining the area of impact. **Mr. Burgess** stated the language determined the distance was two miles, or the ability to reasonably be able to provide those services within a five-year period.

Pursuant to Senate Rule 39 (H), **Senator Anthon** disclosed that he worked with a municipality.

Senator Lakey closed by stating that preferences regarding agriculture could be included in the comprehensive plan without interference from the legislation, preserving local control. **Senator Lakey** stated the two-mile boundary was a maximum, subject to criteria, such as expected city services, within a five-year window.

- MOTION:** **Senator Lee** moved to send **S 1403** to the floor with a **do pass** recommendation. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:10 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary

Alicia Fowler-Rynearson
Assistant Secretary