

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 08, 2016

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

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 McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENTS: The reappointment of Neil Anderson to the Idaho Endowment Fund Investment Board.

The reappointment of M. Dean Buffington to the Idaho Endowment Fund Investment Board.

The reappointment of Charles L. Winder to the Idaho Endowment Fund Investment Board.

MOTION: **Senator Davis** moved to send the Gubernatorial reappointments of Neil Anderson, M. Dean Buffington and Charles L. Winder to the Idaho Endowment Fund Investment Board be sent to the Senate floor with the recommendation that they be confirmed. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. For the record, **Senator Winder** abstained from voting due to an obvious conflict of interest.

GUBERNATORIAL APPOINTMENTS: The Gubernatorial reappointment of Rayelle Anderson to the Bingo-Raffle Advisory Board (Board).

Chairman McKenzie stated that the interview would be by phone since Ms. Anderson is located in Northern Idaho. He asked Ms. Anderson to talk about items of note since her last reappointment, fundraising efforts and the effectiveness of the structure of the program at North Idaho College.

Ms. Anderson stated that she was currently serving as Chairman of the Board. During her tenure, it was decided to develop better access to best practices for raffle and bingo operations sponsored by nonprofits. They are working with the staff at the Idaho Lottery to add this section of best practices to the website.

Ms. Anderson said she has worked with North Idaho College (College) since they started a raffle in 1992-1993. It is the largest fundraising opportunity that they, as a 501(c)(3) charitable nonprofit, have in the State. North Idaho College Foundation (Foundation) partners with the College to support the learning laboratory for the carpentry program. Students in the laboratory build the house and raffle it off to provide funding for the learning laboratory. Without that revenue source and laboratory environment, the College probably would have lost the carpentry

career and technical program. The community always collaborates with the College, the Foundation and the carpentry program to support that project. They are now in their twenty-third year, and every year all tickets have been sold.

Chairman McKenzie asked if there have been questions or feedback from nonprofits that are operating bingo-raffles and are trying to incorporate the best practices into their operations. Are there any particular areas that need to be addressed? **Ms. Anderson** said she gets at least one call each week from the nonprofit sector regarding raffles, and those continue to increase. She is surprised how few people understand that they need to be licensed or that Idaho Code governs bingo and raffles.

Senator Siddoway asked if Ms. Anderson is involved in enforcement. If an entity is out of compliance, is there some type of retribution or would it only be an education process to get them into compliance? **Ms. Anderson** responded that enforcement comes through the Idaho Lottery Commission.

GUBERNATORIAL APPOINTMENT:

The Gubernatorial reappointment of Joe B. McNeal to the Idaho Commission on Human Rights.

Chairman McKenzie asked him to tell what has happened since his last appointment and state any concerns he may have.

Joe B. McNeal introduced himself and explained that the Idaho Human Rights Commission (Commission) was created in Title 67, Chapter 59, by the Idaho Legislature in 1969. **Mr. McNeal** said that the nine commissioners from all over the State take their responsibilities and authority very seriously. The Commission was merged with the Idaho Department of Labor in 2010. The Department of Labor provides only administrative and logistic support; Commission retains its independence. Even though the Idaho Human Rights Act has been amended, the purpose of the act is unchanged; it is to protect the rights of individuals within the State.

Senator Buckner-Webb asked what is the greatest challenge the Commission has in carrying out their duties. **Mr. McNeal** stated that it is the budget. Hiring investigators and other staff is a big concern.

Senator Hill asked for the number of staff members employed and what their roles are. **Mr. McNeal** stated that there is an administrator, eight investigators, two intake personnel and three or four clerks. Other support comes from the Idaho Department of Labor. **Senator Hill** asked what are the most common complaints and how many complaints were investigated. **Mr. McNeal** said that according to the latest annual report for 2015, there were a total of 494 administrative cases processed; there were some miscellaneous settlements and successful collaborations; they also did mediations in some cases. The most common complaints are accommodation, race and sexual harassment.

Senator Buckner-Webb stated that there are some concerns about the lack of ability to file a complaint on the basis of gender identity and sexual orientation. Do people come to your office to have that conversation and where do you direct them? **Mr. McNeal** responded that if it is a complaint that they are not responsible for, they send that person to the appropriate organization for assistance. The 2015 report shows that they processed four sexual orientation and two gender identification cases. **Senator Buckner-Webb** asked if they are sent elsewhere in the community since those people do not fall under the Human Rights Act. **Mr. McNeal** said it depends on what basis the complaint is being filed, such as housing, race or sexual. Any case that falls under their jurisdiction will be handled just like any other case.

Senator Davis stated his appreciation that Mr. McNeal continues to serve. **Senator Davis** restated a question he had asked Mr. McNeal in a previous confirmation hearing: what tools could the Legislature provide to help in the enforcement of the Human Rights Act. At that time the answer was "subpoena power." **Senator Davis** said Mr. McNeal's response then was that it wasn't a current problem, but that it might be an important investigative and enforcement tool going forward. That tool is still not in place. He asked Mr. McNeal to characterize his experience in the last two years on that issue. He asked if Mr. McNeal still believes that some form of subpoena power should be granted. **Mr. McNeal** said that as far as experience goes, the investigators reported when they are interviewing people regarding discrimination, sometimes they don't always get the truth. Without power to insist that they tell the truth, there are no consequences unless they go to court. Subpoena power would make investigations more thorough and more authentic.

Senator Winder thanked Mr. McNeal for his service to his country, for his service to the community as mayor and for his service to Idaho on the Human Rights Commission. **Senator Winder** asked Mr. McNeal to tell them the one thing that would improve the Commission. **Mr. McNeal** answered that if he had the power, he would eliminate all discrimination.

Chairman McKenzie echoed the appreciation expressed for Mr. McNeal's service. The Chairman announced that Mr. Settles had not arrived yet so the next item will be **RS 24034**.

RS 24034

RELATING TO THE SCHOOL DISTRICT BOND CREDIT ENHANCEMENT PROGRAM to raise the aggregate guarantee limit of the credit enhancement program for school district bonds.

Larry Johnson, Manager of Investments for the Endowment Fund Investment Board (EFIB), explained that the purpose of this legislation is to increase the capacity of a guarantee program that reduces the interest rate on general obligation school bonds. The program increases the bond principle that can be guaranteed from \$800 million to \$1.2 billion. It also raises the maximum available to any one district from \$20 million to \$40 million.

Idaho has two programs that boost school bond credit ratings; the first enhancement is provided by the State through a program administered by the Treasurer. The State's program boosts bond ratings to the equivalent of the State's rating which is AA+ on the Standard and Poor's scale. The second enhancement is overseen by the EFIB and has a AAA rating, the highest possible credit rating for voter approved school bonds.

Originally, there were some capacity limits, but due to the growth in the fund over the last 15 years, the EFIB believes the limits can prudently be increased. They have had to turn away requests to guarantee large bond issues. This change will double the program's per district capacity without putting the fund at undo risk.

This proposed legislation has been shared with the education community and school bond financial experts. The EFIB believes it has been thoroughly vetted by stakeholders. It will save the district's money and increase the endowment fund's fee income.

Senator Lakey asked if a school district decides to pass a bond, are they automatically guaranteed for the amount they are asking for or is the decision based on that particular district's ability to be guaranteed? **Mr. Johnson** said that there are metrics that they look at with regard to each district, but there are limitations enshrined in State statute that say a district can only borrow up to

five percent of its taxable value, they are subject to the oversight of the Department of Education to guarantee that every district in Idaho is a good credit risk and they are essentially automatically approved.

MOTION:

Senator Lodge moved to send **RS 24034** to print. **Senator Siddoway** seconded the motion.

Senator Davis said he understands the idea of ultimate savings. However, there is no reference to the risk or exposure that exists in the fiscal note. **Mr. Johnson** answered that because of the limitations and the oversight that is in State statute and Idaho's method of administering schools, the EFIB believes that the risk of any permanent loss from the school bond is essentially zero. There has never been a default on a general obligations school bond anywhere in the nation. If there was some great catastrophe and the district missed a payment and the EFIB made it on their behalf, that would be repaid over time because of the district's taxing ability.

The motion carried by **voice vote**. Senator Winder abstained from voting due to a possible conflict of interest.

RS 24362

RELATING TO SCHOOL DISTRICT TRUSTEES to provide requirements regarding vacancies in case of recall.

Senator Winder explained that this legislation involves a recall election of a school board when more than a majority of the board members are subject to the recall. It provides that when the petitions for recall become certified, those subject to the recall cannot replace a member until such time as the recall election's results have been certified and a majority of the board was not recalled.

Senator Stennett asked what "when impacting more than a majority" means. **Senator Winder** answered that "quorum" might be a better word than "majority." In the circumstance where there is a recall drive to potentially recall four members of a five-member board, there couldn't be a resignation process and replacements appointed by the board subject to recall.

Senator Buckner-Webb asked how "someone with like mind" would be determined. **Senator Winder** said that the real issue is not the person who gets appointed, it is when the recall process is underway; those who are being recalled cannot participate in the replacement of the member(s) who resign.

Senator Siddoway provided a hypothetical example of what could happen if only the remaining board members were the ones who voted in new members, which would eliminate the problem of voting those "of a like mind" to the board. **Senator Winder** said that the big difference occurs when the majority of the board is subject to recall. If those who are subject to recall can be involved in the replacement of someone who is resigning, there is the potential to reappoint people of their choosing with "like mind." **Senator Siddoway** asked for details about the actual instance that is occurring in West Ada School District. **Senator Winder** responded that they are not changing the staggered nature of the positions. He was not prepared to say what the terms are of the individuals.

Senator Buckner-Webb asked who was bringing this legislation. **Senator Winder** stated that he is bringing the legislation forward.

Senator Davis reviewed the process in subpart (4) of **RS 24362** step by step. He compared subpart (4) to subpart (5) and pointed out that the difference between the two rested with the five-day period. What is the difference between "within five days" and "following five days?" **Senator Winder** said that language was part of existing code. **Senator Davis** continued his review. If there is a quorum remaining on the board, then subpart (3) applies to fill a vacancy. If

any of the remaining trustees that did not resign are also subject to that recall election, could there be independent, but somewhat parallel recall efforts?

Senator Winder responded that this legislation deals with a situation where a majority of the board would be subject to a particular recall election; only in that circumstance would they then be prevented from voting on a replacement(s) on that board.

Senator Davis asked for an explanation of the process when there is not a quorum on the board and the Governor must fill a vacancy. **Senator Winder** said that names would be submitted as they are when there are vacancies on other boards or commissions when there isn't a quorum and, after review, the Governor would make his selection.

Senator Davis asked what the difference was between subpart (4) and subpart (5). **Senator Winder** explained that the legislation provides that if there is a resignation during the time period when a quorum of the board is being recalled, the opening will remain vacant. The only time the Governor could appoint someone to fill that vacancy is after the recall is certified and there was not a quorum remaining on that board.

MOTION:

Senator Davis moved to send **RS 24362** to print. **Senator Siddoway** seconded the motion.

Senator Hill said he would support the motion, but he is reluctant to address this issue and appear to give one side or the other some advantage through legislative action.

Senator Buckner-Webb stated she would vote to print but she is very concerned about this legislation.

The motion carried by **voice vote**.

RS 24393

RELATING TO ABSENTEE VOTING to revise a certain application deadline.

Senator Winder explained that **RS 24393** deals with absentee voting. Because of the changes in postal service in certain areas of the State, it takes longer to get absentee ballots out and back. This legislation is extending the period from six days to eleven days to allow for adequate mailing time.

Senator Hill asked who was requesting this change. **Senator Winder** said Phil McGrane, Ada County Chief Deputy Clerk, brought this to his attention.

MOTION:

Senator Siddoway moved to send **RS 24393** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 24394

RELATING TO ABSENTEE VOTING regarding early voting and declaring an emergency.

Senator Winder said **RS 24394** was brought to him by Mr. McGrane. They are updating technology to have the ability to tabulate ballots at the polls. At that time the information is digitized and the vote is recorded.

Senator Davis stated that it was important to protect the privacy of the ballot box. Not every county is like Ada County. Not every precinct is a large precinct. It is easy to see a scenario where people could easily deduce how ballots are cast.

At what point in time will the tabulation results be made available when using the location-based tabulation system? How does that compare to Idaho's current early-voting tabulation system? **Senator Winder** explained that according to Mr. McGrane, that will be a part of the whole consideration about how this

information is managed along with protecting the rights and privacy of the people.

MOTION: **Senator Lakey** moved to send **RS 24394** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie noted that Mr. Settles had arrived and asked him to address activities since his last appointment and to identify any particular areas the Committee should look at.

GUBERNATORIAL APPOINTMENT: The Gubernatorial reappointment Kevin Coyne Settles to the Idaho Commission on Human Rights (Commission).

Kevin Settles, owner of the Bardenay Restaurants and Distilleries, stated that he is being considered for reappointment to the Commission.

Mr. Settles apologized for his lack of timing and asked the Committee not to take it as a lack of interest in the Commission or any lack of respect for the Committee.

Mr. Settles has been on the Commission for 3.5 years. When he was asked to serve he didn't realize at the time that it was going to make him a better employer. What Idaho does is very creative and it is Mr. Settles' understanding that Idaho is the first state to approach how issues between employers and employees are dealt with as they relate to discrimination in age, sex and disabilities. The business community has to comply with an ever-changing set of rules and regulations. He feels honored to represent the business and employer community on the Commission. They take their work very seriously.

Mr. Settles stated that he is amazed at the number of times he refers back to the good work the Commission does to help make sure people are treated fairly in a controlled environment. He was pleased to be asked to be reappointed. Every employer should get the opportunity to serve on this Commission.

Senator Stennett asked about the composition of the Commission that includes several members at large. How do you work with such a diverse group of people and how well do they all work together? **Mr. Settles** said that the Commission works amazingly well together. There is a strong desire to make sure the right decision is made. They cover the broad spectrum; there is union representation, minority representatives and others. They are all open to discussing all issues. The staff also does a very good job during the intake process.

Chairman McKenzie thanked Mr. Settles for his service, noting that they have worked together on some beverage control laws.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 9:05 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary