

Attachment #1
2/24/21

February 23, 2021

Chairman Vick/Senator Harris/Members of the Committee:

Please consider this as my testimony in opposition to Senate Bill 1090. I would appreciate it if you could read it into the record.

My name is Bruce Smith. I am a retired natural resource attorney. I spent 30 years in private practice representing ranching, farming, timber, mining, power, and water delivery entities on a variety of natural resource issues involving litigation, permitting, business strategy, and counseling on various legal matters. I also helped Senate and House committee members with understanding and developing legislation.

Senate Bill 1090 is fundamentally flawed both in its substance and in drafting. Two problems are readily apparent.

First, it is likely unconstitutional. It is easily foreseeable that the bill could deprive the Board of Land Commissioners (Land Board) and the Department of Lands the ability to fulfill their fiduciary obligations to the endowment, obligations that are enshrined in the constitution. The Land Board and the Department have to address a range of complex matters that require specialized legal advice unique to their constitutional obligations. The bill fails to take into consideration, accommodate, and respect the obligations of and issues confronting these constitutional officers and the Department.

Second, the bill is based mostly on speculation and conjecture and a misunderstanding of how the Land Board and Department of Lands operate. It attempts to address concerns that are currently resolvable without the radical restrictions imposed by the legislation. Based on my experiences over 30 years, I contacted the bill sponsor in the House to try to understand the basis for and concerns that were driving the companion House bill. Representative Blanksma told me the House bill was not based on a constituent request and, more critically, she could not identify a single specific instance where the problems envisioned by the bill had actually occurred. It would be helpful to understand if the same is true for the Senate bill. If there are specific examples of problems, they need to be identified so a true understanding is available to the legislature. Also, since the fiscal impact is identified in the bill description, the fiscal impact is grossly misrepresented. There is zero chance the Land Board and Department will get the legal representation they would need for \$250/hour from the private sector. Idaho citizens will end up paying dearly for this misguided legislation.

The above comments are consistent with my experiences in 30 years of representing natural resource clients. I do not recall a single instance where a client voiced concerns with the situation the House bill and I believe the Senate bill attempt to address. Both bills are based on speculation and conjecture and not supported by fact. House Bill 118 and Senate Bill 1090 deserve a rapid and un-tragic death and a shared grave to save time and money.

Thank you,

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