

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, January 30, 2024

TIME: 1:30 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Okuniewicz, Vice Chairman Den Hartog, Senators Winder, Hart, Carlson, Toews, Trakel, Rabe, and Just

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 Okuniewicz** called the meeting of the Transportation Committee (Committee) to order at 1:40 p.m.

RS 31093C1 **Senator Herndon** presented **RS 31093C1**. He explained that this was a revision of **S 1217** which addressed the process for a county or highway district to vacate a public right-of-way or public road that accessed public lands or public waters. **S 1217** required commissioners to accept the presentation of evidence that the highway or public right-of-way being considered for vacation provided access to public lands or waters. **RS 31093C1** added the additional requirement that, if the existence of public access had not been previously adjudicated, the commissioners must follow the procedures set forth in Idaho Code § 40-203A regarding validation of county or highway district system highway or public right-of-way.

An additional change from **S 1217** required that, after a determination of public access to public lands or natural or high water mark of public waters by one of several legal processes, that a substantially similar replacement be furnished. **Senator Foreman** explained that the addition of the language regarding natural or artificial high water marks was an important distinction made in several court opinions. This provision made it clear that public access does need to be proven to get to the ordinary high water mark. This further required that the replacement provide for the same scope of use as the vacated right-of-way rather than specify the length or width of the replacement as **S 1217** provided. **RS 31093C1** also prohibited the use of eminent domain or condemnation to provide a replacement. In addition, these provisions did not apply to any action for abandonment or vacation initiated prior to July 1, 2024. Finally, these provisions were not to be interpreted as creating public access where none existed.

MOTION: **Senator Toews** moved to send **RS 31093C1** to print. **Senator Trakel** seconded the motion. The motion passed by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Mitchell Watkins to the Transportation Board.**

DISCUSSION: **Senator Trakel** expressed concern that this was the third appointee with some connection to Governor Little who had been appointed to a State board or committee and that Mr. Watkins was the chairperson of Friends of Brad Little PAC.

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Mitchell Watkins to the Idaho Transportation Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Rabe** seconded the motion.

DISCUSSION: **Senator Carlson** stated that she had concerns about this appointee and would be voting nay.

VOICE VOTE: The motion passed by **voice vote**. **Senators Carlson and Trakel** were recorded as voting nay.

MINUTES APPROVAL: Minutes of January 11, 2024. **Senator Rabe** moved to approve the minutes of January 11, 2024. **Senator Den Hartog** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Okuniewicz** adjourned the meeting at 1:52 p.m.

Senator Okuniewicz
Chair

Alicia Fowler-Rynearson
Secretary

Meg Lawless
Assisting Secretary