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MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Wednesday, January 15, 2020

TIME: 1:30 P.M.

PLACE: Room EW40

MEMBERS: Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Rubel, Toone, Mason, Necochea

**ABSENT/
EXCUSED:** Representative(s) Wood, Raybould

GUESTS: The sign-in sheets will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheets will be filed with the minutes in the Legislative Services Library.

Chairman Gibbs called the meeting to order at 1:30pm.

Chairman Gibbs turned the gavel over to **Vice Chairman Gestrin**.

RS 27315: **Rep. Gibbs**, District 32, stated this Joint Memorial encourages the President, the United States Secretaries of Agriculture and Interior, the Administrators of the Environmental Protection Agency (EPA), and Idaho's Congressional Delegation to commit adequate, experienced, and knowledgeable personnel, and sufficient financial resources to expedite the permitting process for Itafos Conda's project.

MOTION: **Rep. Blanksma** made a motion to introduce **RS 27315. Motion carried by voice vote.**

RS 27231: **Paul Kline**, Deputy Director, Idaho Department of Fish and Game, stated **RS 27231** will revise **36-416, Idaho Code** to increase most license, tag, and permit fees for nonresidents, effective December 1, 2020. He explained this revision of Code is necessary to offset estimated revenue loss associated with the recent approval of **Docket No. 13-0108-1904** in this committee, which granted authority to the Commission to manage the increased nonresident hunter participation in many over the counter general season hunts for deer and elk. The proposed new nonresident fee schedule includes a general ten percent increase for most nonresident fees with larger increases for big game tags and related items such as archery and muzzleloader permits. He advised the price of nonresident wolf tags, Disabled American Veterans tags, and all fees for resident line items will remain unchanged. The Commission believes reducing nonresident participation in general hunts is needed to maintain quality and diverse general hunt opportunities for residents.

MOTION: **Rep. Kauffman** made a motion to introduce **RS 27231. Motion carried by voice vote.**

**DOCKET NO.
37-0000-1900:** **Mat Weaver**, Deputy Director, Idaho Department of Water Resources, stated the Department's approach to the omnibus actions was consistent with **Governor Brad Little's** Red Tap Reduction Act to identify and eliminate text that was obsolete, outdated, unnecessary, or contrary to existing Idaho Code, federal law, or current court rulings. The Department's efforts to eliminate restrictions focused on words and phrases including shall, must, may not, prohibited, and required. Reductions included uniform formatting, removal of duplication of statute and other rules, and rules in conflict with federal rules. Any changes made were non-substantive and did not change the meaning of the rules. Overall, the Department was able to eliminate one chapter, approximately 27,000 words, and approximately 474 restrictions, representing a 21% reduction.

Mr. Weaver stated there are four rule chapters in **Docket No. 37-0000-1900**, all previously reviewed and approved by the Legislature. Examples of changes within this docket include the elimination of several minimum standard rules in the Stream Channel Alteration Rules because they no longer reflect standard professional practices and the elimination of the class 2 injection well rules from the Rules and Minimum Standards for Construction and Use of Injection Wells because primacy of the class 2 program now resides with the EPA. During the public comment period, the Department received two comments; both requests would have added substantive requirements to the rules which was contrary to the Red Tape Reduction Act, so no action was taken. During the public hearings the Department received one set of written comments pertaining to suction dredge mining, but due to the controversial nature of the stream channel rules, no action was taken.

MOTION: **Rep. Lickley** made a motion to approve **Docket No. 37-0000-1900**.

A discussion ensued among the committee members regarding the concerns of several members on the dredge mining chapter, whether this was the appropriate time to vote on the docket, and how to address the concerns with the specific chapter and section.

SUBSTITUTE MOTION: **Rep. Moon** made a substitute motion to hold **Docket No. 37-0000-1900** for time certain until next week.

More discussion ensued among the committee members regarding the best approach to move forward with this docket in light of the dredge mining concerns.

MOTION WITHDRAWN: **Rep. Moon** withdrew her substitute motion to hold **Docket No. 37-0000-1900** for time certain until next week.

SUBSTITUTE MOTION: **Rep. Moon** made a substitute motion to approve **Docket No. 37-0000-1900** with the exception of **37.03.07.061.01** until time certain next week.

Mr. Weaver alerted the committee the docket chapter and section in question is actually located within the omnibus fee rule **Docket No. 37-0000-1900F**, so this is actually not the appropriate time to be considering a vote on dredge mining.

MOTION WITHDRAWN: **Rep. Moon** withdrew her substitute motion to approve **Docket No. 37-0000-1900** with the exception of **37.03.07.061.01** until time certain next week.

SUBSTITUTE MOTION: **Rep. Shepherd** expressed his concerns about voting on the docket today so made a substitute motion to hold **Docket No. 37-0000-1900** until time certain next week.

VOTE ON SUBSTITUTE MOTION: **Chairman Gestrin** called for a vote on the substitute motion to hold **Docket No. 37-0000-1900** until time certain next week. **Motion failed by voice vote.**

VOTE ON ORIGINAL MOTION: **Chairman Gestrin** called for a vote on the original motion to approve **Docket No. 37-0000-1900**. **Motion carried by voice vote.** **Reps. Shepherd and Moon** requested they be recorded as voting **NAY**.

DOCKET NO. 37-0000-1900F: **Mat Weaver**, Deputy Director, Idaho Department of Water Resources, stated there are 12 fee rule chapters in **Docket No. 37-0000-1900F**, all previously reviewed and approved by the Legislature. He stated the following fee categories described in this docket include administrative appeals filing fees; water supply bank lease and rental fees; adjudication application fees; water rights licensing examination fees; injection well inventory and permit fees; geothermal well permit fees; design review fees for mine tailings impoundment structures and select dams; stream channel alteration permit fees; water rights application, re-advertisement, and mailing fees; well drilling permit fees; and application licensing fees for well drillers. No fee amounts were changed in any rules as part of this effort.

Rep. Giddings, District 7, stated there is great concern from miners in District 7 over the dredge mining chapter within this docket. She stated there are at least a dozen concerns within the stream channel alteration rule section, but she will focus on two examples. She stated her ultimate goal is to see collaboration among the Legislature and all of the various agencies involved with the stream channel alteration rules and how that impacts dredgers.

Rep. Giddings stated her first concern is found on page 434, **37.03.07.061.01, Standards for Suction Dredges**. She explained her concerns are with the standards identified in the subsection which reads "suction dredges with nozzle diameters of five inches or less and rated at 15 horsepower or less" and do those standards meet the legislative intent. Rep. Giddings then referenced **Idaho Code, Title 47, Chapter 13, Section E**, dredge mining definition, which states motorized earth-moving equipment includes suction dredges with an intake diameter exceeding eight inches. She explained her concern is that in Idaho Code there is a guideline for eight inches, yet in the rules the guideline is for five inches.

Rep. Giddings stated her next concern is also found on page 434, **37.03.07.061.03, Mechanized Equipment Prohibited Below High Water Mark**, which states "there shall be no use of mechanized equipment below the mean high water mark except for the dredge itself, and any life support system necessary to operate the dredge." She explained this is a problem for dredgers because they use winches to create a safer dredging operation and don't understand why a winch would be prohibited when it is not mechanized.

Mr. Weaver explained a person can get a permit for a larger diameter hose, but must follow the joint application permit process. The removal of the minimum standards (five inches or less and 15 horsepower or less) which allows the use of the expedited permit process would eliminate the option for a quicker permit process. This expedited process was established to take care of the small scale dredge operations so they wouldn't have to go through the full blown joint application permit process.

MOTION: **Rep. Gibbs** made a motion to approve **Docket No. 37-0000-1900F** and wished to speak to the motion. He stated these rules have been in place for years and if these sections are removed the small scale miners will lose out. He believes it is better to approve the docket now and work with the agency on this later and bring it back next year.

SUBSTITUTE MOTION: **Rep. Blanksma** made a substitute motion to approve **Docket No. 37-0000-1900F** with the exception of **37.03.07.061.01 and 37.03.07.061.03**.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Rep. Boyle** requested a roll call vote on the substitute motion. **Motion carried by a vote of 10 AYE, 6 NAY, 2 absent/excused. Voting in favor** of the motion: **Chairman Gestrin, and Reps. Moyle, Shepherd, Boyle, Vander Woude, Mendive, Blanksma, Addis, Moon, and Rubel. Voting in opposition** to the motion: **Reps. Gibbs, Kauffman, Lickley, Toone, Mason, and Necochea. Reps. Wood and Raybould were Absent/Excused.**

RS 27373: **Shelley Keen**, Water Allocation Bureau Chief, Idaho Department of Water Resources, stated **RS 27373** gives the Director of the Department of Water Resources explicit authority to receive and retain documents on media other than paper.

MOTION: **Rep. Gibbs** made a motion to introduce **RS 27373. Motion carried by voice vote.**

DOCKET NO. 25-0101-1900F: **Lori Thomason**, Executive Director, Outfitters and Guides Licensing Board, stated there is one chapter in this docket, previously reviewed and approved by the Legislature. They reviewed the rules to identify and eliminate rules that were obsolete, outdated, or unnecessary as well as following the Board's recommendations to reduce barriers to licensure. As a result, seven pages of rules and 163 restrictions were eliminated, which is a 62% reduction. Examples of the changes include allowing licensees to provide electronic proof of licensure instead of their license card and elimination of the fee to be put on a waiting list for notification of an available outfitting opportunity for licensure.

MOTION: **Rep. Kauffman** made a motion to approve **Docket No. 25-0101-1900F**. **Motion carried by voice vote.**

RS 27211: **Lori Thomason**, Executive Director, Outfitters and Guides Licensing Board, stated **RS 27211** clarifies some of the language in the law that was amended in **H 192** from the 2019 Legislative Session regarding the Board's designation of allocated deer and elk tags in controlled hunts.

MOTION: **Rep. Lickley** made a motion to introduce **RS 27211**. **Motion carried by voice vote.**

RS 27212: **Lori Thomason**, Executive Director, Outfitters and Guides Licensing Board, stated **RS 27212** simplifies the Board's fee statute to streamline fees and to set the amount of fees in rule from statute, making the Board's fee statute consistent with other licensing agencies.

MOTION: **Rep. Addis** made a motion to introduce **RS 27212**.
Rep. Moyle explained he cannot support this motion to introduce because by putting it into the rules process it takes away the authority of the Legislature. He stated it should be in statute.

VOTE ON MOTION: **Chairman Gestrin** stated he was in doubt regarding the voice vote and asked for a roll call vote.

ROLL CALL VOTE ON MOTION: Roll call vote was requested. **Motion failed by a vote of 6 AYE, 8 NAY, 4 absent/excused. Voting in favor of the motion: Reps. Gibbs, Kauffman, Addis, Lickley, Mason, and Necochea. Voting in opposition to the motion: Chairman Gestrin, and Reps. Moyle, Shepherd, Boyle, Vander Woude, Mendive, Blanksma, and Moon. Reps. Wood, Raybould, Rubel, and Toone were absent/excused.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:04pm.

Representative Gestrin
Chair

Tracey McDonnell
Secretary