



Capitol Review

A Weekly Legislative Report

Association Management Group

Rick Waitley
Roger Batt
Benjamin Kelly

55 SW 5th Ave #100
Meridian ID 83642

phone: 208-888-0988
fax: 208-888-4586

Vol. 12 No. 11

3/23/2012

ANIMAL BILLS HELD

The House and the Senate have both crafted what they believe to be the legislation that addresses animal care in Idaho. **H650** by **Rep. Andrus** addresses torture of companion animals and **S1303** sponsored by **Senator Brackett** addresses production animals. After evaluating the two bills, **the agriculture industry aligned behind S1303** given that agriculture deals largely with production animals. The Human Society of the U.S. (HSUS) sent a letter to Rep. Andrus, Chairman of House Ag, stating that if the legislature passed H650, they would discontinue their efforts to place an animal care issue on the Idaho ballot in November. **HSUS believes that H650 would address their desire** for a felony penalty in Idaho for animal abuse. However, the group driving the initiative for the fall of 2012 is **a group called 1 of 3** (meaning Idaho is one in 3 states with no felony penalty). They have not provided such a letter and continue their efforts to collect signatures. They have collected 25,488 signatures at this time and need 47,432 signatures by April 30 to have the initiative placed on the ballot. HSUS feels that H650 makes an honest attempt to address their issues of concern for animal welfare, but **they hold that S1303 does not go far enough** for their satisfaction. **The Senate has passed S1303** and the **House has passed H650**. However, at this time, S1303 is stuck on the House calendar and H650 has not been scheduled to be heard by the Senate Ag Affairs Committee. We may complete the 2012 session and **be no further** on this issue than we were when we started in January.

CONDITIONAL USE PERMITS

H691 amends the statute governing conditional use permits to address issues arising from the recent Idaho Supreme Court decision in *Burns Holdings, LLC v. Teton County Board of Commissioners*. A Supreme Court ruling from earlier this year **threatens** all "conditional use permits" because the ruling stated that the use of these permits is **not allowed under the Idaho Planning and Zoning statutes**. Many portions of the agriculture industry, specifically food processing and commercial facilities, are likely to be **negatively affected** by the *Burns Holdings* case. Often, these are the types of

buildings that need exceptions to height as well as additional construction requirements. H691 clarifies that the Idaho Legislature intended the conditional use permit to be a process used **to allow exceptions** to zoning standards that could be permitted. This legislative intent has been followed for over 30 years and *Burns Holdings* places in question prior permits issued through valid public hearing practices. H691 has passed the House and will be heard in the Senate committee next week.

LET THE PROCESS BEGIN

Senator Melinda Smyser, two-term Idaho Senator appointed to fill the position vacated by Lt. Governor Brad Little when appointed by Governor Otter, **has accepted a position as Regional Director for Senator Jim Risch**. Senator Smyser elected to retire from the Idaho Senate and not run against a good friend and loyal party worker – **Senator Patti Anne Lodge** following the results of **redistricting** in Idaho. In her new position, Senator Smyser will oversee constituent services for Senator Risch throughout southwestern Idaho.

NEW CANDIDATES EMERGING

This past week AMG staff began meeting with candidates seeking election in the May 15 Primary. **Matt Dorsey** is a dairyman from the Marsing area running for District 11 in Canyon County. Matt is a graduate of Leadership Idaho Agriculture and he and his wife Kristie **have been very involved** with the Young Cooperators program through Darigold Co-op out of Seattle. Their involvement in the Northwest Regional of Young Cooperators gave way to their election as National President of the organization. Matt has been very involved in the establishment, and continues to serve on the school board of Jefferson Charter School in Caldwell.

Rick Youngblood in a bank officer with Intermountain Community Bank in Nampa and will be running for a House seat in District 12. Youngblood is very active in the Nampa community. He has been responsible for helping start a few companies over the years and has a **good understanding** of the role agriculture plays in Idaho's economics.

more →

DEEDED ACCESS

H583 is the result of a **change of position** by the Idaho Transportation Department (ITD) related to the **access to highways**. In the past, ITD has recognized deeded access when an encroachment to a state highway was applied for. The property owner was **guaranteed access** to the highway, and if ITD denied the request, the property owner was **paid for the loss of access** as a recognized property right. In some instances where ITD had access control and property owners no longer processed their access rights, ITD sold access back to the property owners. However, most recently this arrangement has changed and ITD has assumed a position that deeded access need not be recognized or considered. It stands to reason – **property with access is more valuable than property without access**. Because ITD seems to not recognize deeded access, individuals with deeded access rights now end up dealing with these issues in courts. Many property owners throughout Idaho have deeded access rights that they believe are valid. **H583**, providing for definitions of access easements, should be able to fix these concerns and is **on its way to the Governor for his signature**.

PRESCRIPTIVE EASEMENTS

H628 deals with **easements and the width of highways in Idaho**. This legislation is designed to address the Idaho Supreme Court's holding in the *Halvorson* case that prescriptive rights-of-ways across private land are **no less than 50 feet in width**. In the past the law has been that prescriptive easements are **limited** to the width actually used for the road. There is no proper basis to allow governments to take 50 feet across property **when they have not paid** just compensation for that taking and have **not actually used** the ground for a roadway. Because of the ruling in the *Halvorson* case, districts do not have to pay for the area between their historic use and 25 feet of the centerline of the road. This directly implies that any fences, permanent irrigation structures or any other developments **can be taken without compensation and without recourse**. This legislation was **supported by agriculture** and passed the House with a 53–14 vote. We are hoping to see it on the Senate floor on Monday or Tuesday.

Capitol Review is written to inform the clients of Association Management Group (Waitley Associates, Batt Associates and Kelly Associates) about activities in the Idaho Legislature and, due to the proprietary nature of the publication, **IS NOT** for distribution to others **without attribution to AMG**.

DEPARTMENT OF TRANSPORTATION

Food Producers of Idaho had the opportunity to hear from the Idaho Department of Transportation as they reviewed their **2011 Strategic Plan**. In **2010, 209 people were killed and 11,725 people injured in crashes on Idaho's highways**. The economic and personal costs of these deaths and injuries, along with the more than 22,000 collisions that occurred throughout the state, amount to more than \$2.4 billion.

Governor Otter rolled out **Project 60** aimed at growing Idaho's domestic product to \$60 billion annually by selling more products and services to the world. Idaho's gross **domestic product and the state's transportation system are intrinsically linked**. There are **three primary goals** to the Strategic Plan:

- Commit to having the safest transportation system possible
- Provide a mobility-focused transportation system that drives economic opportunity
- Become the best organization by continually developing employees and implementing innovative business practices

To learn more about ITD's strategic plan, go to itd.idaho.gov and click on the "Dashboard" icon.

VALUE ADDED AGRICULTURE

H606 would **create a tax credit** for businesses that make use of new Idaho agricultural products to create a new value added product. **Rep. Roy Lacey** and **Rep. Donna Pence** are sponsoring H606 and moved it through the House Rev & Tax Committee last week. The bill had been sent to the amending order for some possible changes but passed the House on a 62–6 vote. In the Senate, its future was uncertain until we received word Thursday that Senate Local Government and Taxation **Chairman Tim Corder** will not give the bill a hearing in the Senate. Chances are the bill is dead for this session but will be brought back in 2013. H606 would add an income tax credit for any agriculture producer who takes a commodity and adds value to it, consequently **entitling them to the tax credit**. The proposed legislation is patterned after a North Dakota law specifically for cooperatives. The tax credit can be used for investment in the facility and creates an opportunity to increase the use of Idaho commodities. The tax credit is 30% of your investment at a maximum of \$500,000.