

# Capitol Reflections



2018 LEGISLATIVE SESSION

“The rights to hunt, fish and trap, . . . are a valued part of the heritage of the State of Idaho and shall forever be preserved for the people. . . The rights set forth herein do not create a right to trespass on private property, . . .and shall not lead to a diminution of other private rights.”  
- Idaho Constitution, Article I, Section 23

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## PROPERTY RIGHTS BILL ADVANCES

This week H658, the property rights protection bill, passed through the House on a vote of 45-22. There were 11 Republicans who joined 11 Democrats in voting against the bill.

There were a number of Legislators who gave some excellent debate on the floor in favor of H658, including Reps Luke Malek (R- Coeur d'Alene), Greg Chaney (R-Caldwell), Dell Raybould (R-Rexburg), Bryan Zollinger (R-Idaho Falls), Mike Kingsley (R-Lewiston), Dorothy Moon (R-Stanley), Steve Miller (R-Fairfield), Tom Dayley (R-Boise), Heather Scott (R-Blanchard), and the sponsor, Rep Judy Boyle (R-Midvale).

Those who debated on the floor against the bill included Reps Mat Erpelding (D-Boise), Lynn Luker (R-Boise), John Gannon (D-Boise), Randy Armstrong (R-Inkom), Christy Perry (R-Nampa) and Dustin Manwaring (R-Pocatello). Later this week, H658 was heard in the Senate Resources

Committee chaired by Senator Steve Bair (R-Blackfoot). At the hearing, no additional issues were raised, and IFBF members Richard Durrant, Danny Walton and Brady Lindley all did a great job of explaining the need for H658 to the committee. Each shared compelling testimony about problems they have had with trespassers and the general lack of respect for private property.

One of the co-sponsors, Senator Mark Harris (R-Soda Springs), suggested to the committee that H658 should be amended. Prior to the hearing, the general level of anxiety was rising for Senators. They, like their House counterparts, have been bombarded by hundreds of form-letter emails generated by the Idaho Wildlife Federation. IWF is a faux “sportsmen’s” group which is really a bunch of environmental zealots in disguise. If you google the IWF, you will find they have been involved in dozens of lawsuits partnering with the Western Watersheds Project, Idaho Conservation League, Sierra Club and other equally radical organizations. They are anti-grazing, pro-wolf, and have worked to breach dams and prevent the delisting of the grizzly bear. They are not friends of property rights, or of rural citizens.

Amendments were prepared and were ready to go on Thursday as directed by the Chairman. Later that day, we were told that it would not be amended until Friday. Then on Friday, it was announced that Legislative Services was having IT problems, so amendments could not be prepared for anyone. It is now delayed again until Monday. Stay tuned for additional information next week on this bill. **IFBF supports H658.**



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## SOME BILLS THAT WILL NOT MOVE FORWARD

IFBF has been monitoring a number of bills this session. Several bills we are opposed to have been introduced; but have not advanced. Here is an overview of a few:

**H396** – Sponsored by Rep Ilana Rubel (D-Boise), is an attempt to overturn the prohibition against using eminent domain to condemn private property for walking paths or other recreational trails. Farm Bureau worked closely with Senator Jim Guthrie (R-Inkom) a couple of years ago to ensure property owners were protected from a taking of their property for recreational trails. The bill will not advance.

**H397** – Sponsored by Rep John McCrostie (D-Garden City), is an attempt to reverse the prohibition against a city or county raising the minimum wage in their area above the state minimum wage. IFBF policy opposes raising the state minimum wage above the federal minimum wage, or any locality doing the same. This bill will not advance.

**S1224** – Sponsored by Senator Maryanne Jordan (D-Boise), is an attempt to expand Medicaid eligibility in Idaho to those who fall within the “gap” population. IFBF policy opposes the expansion of Medicaid in Idaho. This bill will not advance.

## S1306 AMENDED IN THE HOUSE, AND SENATE CONCURS

Last week, the House of Representatives amended S1306 to include groundwater districts to the list of water delivery entities that may request notice of land-use applications and public hearings. The bill now requires planning and zoning authorities to notify those water delivery entities, namely: *irrigation districts; groundwater districts; Carey Act operating companies; nonprofit irrigation entities; lateral ditch associations; and drainage districts*, who have requested notice in writing of any proposed rezoning, subdivision, or any other site-specific land development proposals. The groundwater districts were included in the bill so they could receive notification of any land-use proposals that require new wells or that will increase pressure on groundwater resources.

As towns and cities expand, rezoning occurs, and developments take place. There are times when project proposals fail to fully consider easements, and rights-of-

way and infrastructure owned or operated by water delivery entities. Idaho law protects water rights from being injured or impaired by development projects. S1306a will aid in assuring that water delivery infrastructure, easements, and rights-of-way are not encroached upon as development occurs, and that the rights of water users are not injured.

The bill was sent back to the Senate to be reconsidered and was ultimately approved and passed on Thursday. The Farm Bureau thanks Sen. Kelly Anthon (R-Burley) and Rep. Clark Kauffman (R-Filer) for being the bill's legislative sponsors.

Idaho Farm Bureau policy #138 supports legislation that would provide water users notice of proposed changes to land-use planning that might affect water delivery and/or water rights. **IFBF supports S1306a**

## LEGISLATURE PASSES S1305 – STOCKWATER APPURTENANCE

S1305, regarding stockwater being an appurtenance to the base property, won unanimous support in both chambers of the legislature. This Farm Bureau bill was passed by the House of Representatives last week and has now been sent to the Governor for his signature.

The bill amends Idaho Code 42-113 to codify the portion of the Idaho Supreme Court's Joyce Livestock decision, which affirms that stockwater rights associated with grazing permits on federal lands are an appurtenance to the base property. The legislation goes on to clarify that when federal grazing permits are

transferred to a new owner by a means other than purchasing the base property, the water right may be conveyed under certain conditions and become appurtenant to the new owner's base property.

Idaho Farm Bureau policy #48 supports legislation that would codify the holding in the Joyce decision that stockwater rights are an appurtenance of the base property. The Farm Bureau appreciates Sen. Mark Harris (R-Soda Springs) and Rep. Judy Boyle (R-Midvale) for being S1305's legislative sponsors. **IFBF supports S1305**

## UPDATE: 2 BILLS PASS SENTATE, GO TO GOVERNOR

Two bills, which have been covered extensively in prior *Capitol Reflections*, passed the Senate this week and now go to Governor Otter for his signature. **Idaho Farm Bureau supported both H537 and H538.**

**H537** is a bill which transfers food safety inspections from the Idaho Dept. of Health and Welfare (H&W) to the Idaho State Department of Agriculture (ISDA). Food manufacturing and produce production inspections mandated by the Food Safety Modernization Act (FSMA) will become the responsibility of the ISDA by 2020. Because the federal rule originates from the Food and Drug Administration (FDA), H&W was tasked with these inspections.

Inspections will not be conducted if federal funding is no longer available and Idaho inspection standards

will not exceed federal standards. ISDA understands the ag industry. The food manufacturing and fresh produce inspections will however, be conducted by a different set of inspectors, as current ISDA inspectors in fresh produce facilities inspect for grade and quality standards.

**H538** is legislation which corrects the sunset clause found in the enabling legislation for the Wolf Depredation Control Board (WDCB). The bill extends the sunset clause to 2020 for the WDCB, \$25 wolf control assessment and the directive to the Idaho Fish and Game Department to provide revenue to the wolf control fund.

The correction is needed so the WDCB can authorize and expend funds into FY20, as originally intended by the enabling legislation. IFBF supported the original bill as well.

## ADDITIONAL LEGISLATIVE CHANGES

The January 12, 2018 *Capitol Reflections* talked about a number of legislators who will retire at the end of this term. Since that article appeared 2 retirements and an open House seat created by a sitting Representative filing for an open Senate seat have been confirmed.

Rep. Hy Kloc (D- Boise, House 16B) will retire after 3 terms. Rep. Kloc served on the Education and Business Committees.

Rep. Van Burtenshaw (R-Terreton, House 35A) has filed for the Senate seat in District 35 being vacated by retiring 6-term Senator, Jeff Siddoway (R-Terreton). Rep. Burtenshaw is a 2-term House member serving on the Agricultural Affairs,

Appropriations and Resources & Conservation committees.

Rep. Maxine Bell (R-Jerome, House-25A) will retire at the end of her 15<sup>th</sup> term in the House of Representatives. Rep. Bell serves on the Agricultural Affairs Committee and as Chairman of the House Appropriations Committee.

The 14 retirements have created 15 open seats which will appear on the May 15, 2018 primary election ballot. The 4 open Senate seats are in Districts 1, 3, 14 and 35. Open House seats are 2B, 3B, 4A, 11B, 16B, 18B, 24B, 25A, 28B, 34B and 35A. The number of new faces in the 2019 Legislature could be even greater than the number of open seats as many incumbents face primary election challengers.

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