



CAPITOL REVIEW

A WEEKLY LEGISLATIVE REPORT

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A Weekly Legislative Report

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EXEMPTIONS TO MANDATORY PERMITTING FOR USE OF WATER

Speaker Scott Bedke played a major role in the 2016 legislature related to water proposals. The Speaker seems to be continuing in that role with H292 introduced on Thursday of this week. The proposal deals with temporary permits for water diversions. This is being impacted by the current flooding conditions affecting several areas of Idaho. A permit is needed to be able to divert water and the proposal would allow for a temporary permit to meet needs. Also, the legislation would lift the cap and put some sideboards on the permit. H292 would create three exemptions to the mandatory permit requirement for three temporary uses of water. The first exemption would authorize the director of IDWR to allow the diversion of water to prevent flood damage. The second exemption would authorize the director to use unanticipated high flows for the purpose of ground water recharge. The third exemption would allow the director to authorize the use of water in response to state or federal health and safety requirements. Such uses would not constitute a water right and would only be of one-year duration. With the winter that Idaho has just experienced and the excessive amount of water built up in many of the holding facilities in the state, H292 is valuable legislation to address issues of mandatory permit requirements.

TRANSPORTATION FUNDING

Before legislators traveled back to their home districts on Idaho's winter-battered roads last weekend, the Senate Transportation Committee quickly approved two proposals Friday afternoon that would offer increased funding for roads. Though late in the session, a number of proposals have been developed and this week saw them break loose with the legislature only a week or two away from adjournment. These proposals have been held closely by leadership as well as a few key legislators. This procedure irritates the rest of

the legislative body but also allows a cohesive, initial plan to be put forth, and then it is summarily picked apart by legislators, interested parties, and the general public.

Both proposals that were introduced last week included the always controversial Grant Anticipation Revenue Vehicles administered by the federal government. The program is more commonly known as GARVEE, and you may remember that transportation funding that included GARVEE was the reason for the legislature holding its longest session in Idaho's history, a little less than a decade ago. As a review, GARVEE is a federal debt financing tool that is issued when revenue is anticipated from a specific source to advance the upfront funding of a particular need. In the case of transportation finances, the anticipation vehicles' revenue source is expected from federal aid grants. States can receive federal aid reimbursements for a wide array of debt related costs incurred in connection with eligible debt financing which includes highways. The hang up with Idaho elected officials always comes down to the problem of incurring the debt and not being a 100% sure that federal aid grants will be available or in the time frame for which they are needed. Idaho's last GARVEE bonded construction projects finished in 2015, with 59 projects statewide, including 35 new bridges, 14 new or improved interchanges, and 119 miles of highway expansion, all in six identified corridors. Currently, Idaho has \$564.2 million in outstanding GARVEE bonds, and 15 years left to pay it off, with full payoff scheduled for 2032.

The two proposals were given bill numbers over the weekend with a hearing suspected in the Senate Transportation Committee on Tuesday. The bare bones bill (S1162) would draw from the highway transportation projects list in an amount up to \$300 million and the project selection would be the sole responsibility of the Idaho Transportation Board. The bonding would also be expected to be paid from the State Highway account and the allocation

of the bond proceeds would also be the responsibility of the Idaho Transportation Board. The second bill included the same \$300 million with another \$200 million in addition. Prior to the Tuesday hearing, the bill ran into some trouble, had to be reworked, and pushed the hearing to Thursday, with a new bill number. The final iteration (S1188) still came out with a price tag of \$500 million and approved that the \$200 million would give general bonding authority to the Idaho Housing and Finance Association to finance projects. ITD may select to improve safety, provide commerce opportunities, and reduce congestion S1188 funds. Of this bonding authority, 60% would be for state projects and 40% for local governments. State projects associated with the bonding authority would be limited to counties with a population of over 175,000.

In the committee hearing S1188 was narrowly defeated on a 4-5 vote. S1162 was then debated and passed on an equally narrow 5-4 vote with a number of members expressing their frustration with voting in favor for only GARVEE funding. House members have already said that they would expect to re-work S1162 if it passes the Senate. There has already been \$52 million allocated in emergency road funding that would encompass a large portion of the state's budget surplus this year for winter repairs. Transportation funding traditionally falls into one of the large issues that can prolong or abruptly end the legislative session. S1162 could be one of those measures that is the "going home bill" for 2017.

INVASIVE SPECIES COORDINATOR

A much discussed bill (H274) that has been renovated three times with three separate bill numbers, has some traction, and was passed out of the House. The bill amends the Idaho Invasive Species Act by establishing a position in the Governor's office, an administrator of invasive species policy, and places the Idaho Invasive Species Council in Idaho Code. H274 sets up the duties of the administrator and the Department of Agriculture and lays out the coordination efforts between state agencies. H274 will be heard in the Senate Ag Affairs Committee on Tuesday. The sponsor of the bill is expected to add amendments. If those amendments are approved by the committee, the bill will go to the full Senate and placed in the 14th order. At that point, amendments can be added, may or may not be approved, or the bill could be left there and never acted on.

EASTERN SNAKE AQUIFER PLAIN - REPORT

Brian Patton, Idaho Water Resources Board, presented the projects and efforts undertaken on the Eastern Snake River Aquifer Plain. The aquifer has several projects underway or completed to increase the winter recharge capabilities and storage capacity:

- Milner-Gooding Canal - Shoshone Concrete Channel Rehabilitation - will allow winter flows to be delivered to the Shoshone recharge site.
- Milner-Gooding Canal – Mile 28 Hydro Plant By-Pass, allows for winter flows to safely by-pass the Mile 28 Hydro Plant on its way to the MP31 Recharge Site.
- A new and completed canal to the Elgin Recharge Bench Site.
- Milner-Gooding Canal – MP 31 Managed Recharge Site Expansion and new/completed Check dam and Turnout
- SW Irrigation District – New GW/SW conversion and recharge pipeline under construction.

HELLS CANYON UPDATE

The memorial and multiple pieces of legislation concerning the relicensing with the Federal Energy Regulatory Commission for the Hells Canyon Project have been making their way through the legislative process. Our initial report in February outlined the project and issues in more detail. HJM 2 has been adopted by both the House and Senate and provides that the Idaho Legislature oppose the introduction or reintroduction efforts of fish. It also directs the Governor and the Attorney General to take all the necessary measures to oppose and prevent Oregon's unilateral introduction efforts. H169 has been approved by both Houses and will be on the Governor's desk for his consideration. The bill requires that no action be taken by any federal agency, state, or state entity acting on behalf of a federal agency, to introduce or to reintroduce any species into the state of Idaho without first securing the approval of the Idaho Legislature. H171 is also awaiting the Governor's signature before it becomes law and is more specific to the Hells Canyon Hydroelectric Project. This will make it consistent with Idaho policy that fishways are not required to be constructed on the project.

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