

## **Idaho attorney general doesn't plan to bend on view of the law Wasden could face another confrontation next legislative session**

By William L. Spence of the Tribune The Lewiston Tribune

If conservative lawmakers take another run at nullification in the upcoming legislative session, Idaho Attorney General Lawrence Wasden could once again find himself at the center of the legal storm.

That was where he ended up last session, after refusing to play along with efforts to prohibit state and local government agencies from enacting or enforcing any portion of the federal health care reform legislation.

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Wasden's office issued two unfavorable legal opinions regarding the nullification bills, saying states don't have the right to pick and choose which federal laws they'll allow and suggesting the move could cost the state hundreds of millions of dollars in federal Medicaid payments.

That prompted one irate lawmaker to propose that the Legislature hire its own attorneys so it wouldn't have to rely on the attorney general for legal advice. The funding for the new legislative counsels would be stripped out of Wasden's budget.

"I think there's a body of legislators who want to listen to what we have to say, even if they don't agree with it," said Wasden, who was in Lewiston Friday. "Then there's a more vocal group who couldn't care less what we have to say. They want to take away our funding and hire their own attorneys. Is that good public policy? Are they going to get an honest broker, or someone who'll say what they want to hear? My job isn't to tell you what you want to hear. It's to tell you what the law says."

Wasden began working in the attorney general's office 22 years ago. He is now the state's longest-service AG, having first been elected to the top spot in 2002. He was in Moscow and Lewiston this week giving seminars on Idaho's public records and opening meeting laws.

His uncompromising attitude toward the law has put Wasden in difficult positions before, most notably in 2010 when he sued the Idaho State Land Board - of which he is a member - for approving new lease rates for 522 state trust land cottage sites near Payette Lake and Priest Lake.

Revenue from the cottage site leases goes to public schools and other state trust land beneficiaries. As a land board trustee, Wasden said, he has a fiduciary responsibility to maximize the long-term revenue for the beneficiaries - regardless of the consequences for cottage site leaseholders.

"The obligation is to serve the beneficiaries only," he said. "We're supposed to have an 'undivided loyalty' to the beneficiaries."

Several studies had indicated the state should be earning a 4 to 6 percent annual return on the cottage site leases, he said, yet the state historically earned less than 2.5 percent. In 2010, the land board approved a new lease arrangement that would once again short-change the trust beneficiaries, so Wasden sued.

"We (the land board trustees) weren't fulfilling any of our responsibilities to the beneficiaries," he said.

The land board eventually reversed its decision and approved a 4 percent lease rate. The lawsuit remains active, however, in order to address whether the Idaho Constitution requires leases to be awarded at public auction. Several leaseholders have also sued the state, seeking to overturn the 4 percent rate.

Wasden said he hasn't decided if he's going to run for a fourth term in 2014. That will depend to some extent on how the new closed primary works out, he said. There's also a gubernatorial and U.S. Senate race to consider.

In the meantime, he doesn't plan to change his approach to the law, whatever the pressure to play cheerleader for lawmakers' pet bills.

"It isn't going to change the way I deliver legal opinions," he said. "I took an oath to uphold the Constitution. We've tried to be honest brokers and tell the truth, even when it's to our disadvantage."

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