

## **Idaho's legislative fund has paid \$275K in outside counsel**

By KIMBERLEE KRUESI, Associated Press

BOISE, Idaho (AP) — A little-known legislative fund is being used by Idaho lawmakers to pay for outside legal counsel rather than rely on the state's Attorney General's office.

The Legislative Legal Defense Fund has paid nearly \$275,500 over the past three years for private attorneys to provide input on the takeover of federal public lands, sage grouse management and the state's health insurance exchange. Meanwhile, Attorney General Lawrence Wasden had the ability to produce legal services in all three areas, but lawmakers chose to spend taxpayer money on outside attorneys.

In 2012, Republican lawmakers pitched the fund as a way to pay for outside legal expenses one year after the Idaho Legislature rejected a plan to set up a legislative counsel office rather than rely on opinions from the attorney general. At the time, minority Democrats objected to the bill because they viewed it as getting a third opinion when the attorney general gave an opinion differing from the preferred political ideology.

The fund was originally given \$200,000 to be split between the House and Senate and another \$1 million this year.

House Speaker Scott Bedke of Oakley and Senate Pro Tem Brent Hill of Idaho Falls — the top two legislative leaders — approve all of the expenses. As of November, the fund's balance was roughly \$970,000.

According to expenditure reports requested by The Associated Press, the fund has been spent on legal opinions, legislative committee consultations and individual meetings with lawmakers, not for settlements or court fees.

However, that might change now that account funds are being used to pay a private Boise law firm to represent the Idaho Legislature and Gov. C.L. "Butch" Otter in its lawsuit against the recent federal sage grouse listing decision. Idaho's

suit argues that the federal government wrongly ignored the state's efforts to prevent the bird from being listed.

Wasden's office is not involved in the case.

Instead, Tom Perry — Otter's former chief legal adviser, who chaired the governor's task force on sage grouse management — has been paid roughly \$143,000 as of November to take the lead on the lawsuit.

"We had lengthy conversations about it," Hill said. "Even though we suspected (sage grouse) may not be listed, we still wanted to go ahead with this."

Hill said that he has never refused a request for the fund.

Nearly \$94,000 has been spent on Holland and Hart, another Boise law firm, for counsel on the legality of Idaho taking control of federally managed public lands, even though Wasden's office has questioned the legality of such a pursuit.

"I've expressed my concern about it being fiscally responsible," Senate Minority Leader Michelle Stennett of Ketchum said. "I get a little disturbed when we have a perfectly capable AG's office, who gets marginalized when (lawmakers) are given an answer they may not agree with. But beyond raising my concerns through conversations, there's not much I can do."

The fund also paid \$19,500 to Boise firm Givens Pursley back in 2013 over the creation of the state-based health insurance exchange. Hill said he received a request from former state Sen. Russ Fulcher, a tea party-leaning Republican, who wanted to know if Otter had the authority to approve a health insurance exchange without legislative OK.

The Idaho Legislature approved a state-based exchange later that year, with Wasden's office producing seven legal opinions to various lawmakers on legal queries.

Meanwhile, Stennett said she was not aware of any Democrat requesting to use the fund.

"It's quite exclusive, it was built that way on purpose," Stennett said. "You would hope someone would ask if this is a smart use of funds."

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