

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Thursday, February 09, 2012

TIME: 9:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Lake, Vice Chairman Collins, Representative(s) Barrett, Moyle, Raybould, Roberts, Schaefer, Smith(24), Wood(35), Bedke, Harwood, Barbieri, Bayer, Ellsworth, Gibbs, Killen, Burgoyne, Rusche

**ABSENT/
EXCUSED:** None.

GUESTS: Brett DeLange, Office of the Attorney General; Tony Poinelli, Idaho Association of Counties (IAC); Phil Homer, Idaho Association of School Administrators (IASA); Brad Wills, BuildIdaho.org; Jeremy Pisca and Ben Davenport, Idaho Building Contractors Association (IBCA); Heidi Low, American Cancer Society Cancer Action Network (ACS CAN); Teresa Molitor, Reynolds American, Inc. (RAI); Zach Hauge, Capitol West

Chairman Lake called the meeting to order at 9:03 am.

RS 21234C1: **Rep. Hartgen** presented **RS 21234C1** which is legislation that has been in the discussion phase since last year. **Brad Wills**, BuildIdaho.org, has been instrumental in getting this proposed legislation completed. It is an amendment to Idaho Code 63-602W and Section 63-301A. The construction industry pays taxes on a large amount of property. New parcels add new business and allow tax districts to expand. When use of land changes, taxes do increase. If the development is platted without any agriculture or forestry use, and there are no improvements, or it is improved with infrastructure but vacant, there is no opportunity for the developer to recoup any costs. This legislation would hold value at the level of no improvement for tax purpose until actual site improvements are made. An application is required for each exemption in this process. This would prevent the shift to other tax categories. If there is any reduction in value, a new construction role would be prepared. Any reduction in value would be applied to the new construction role. This legislation would be retroactive to January 1, 2012.

In response to Committee questions, **Rep. Hartgen** stated that the lookback period would continue to be five years. There are inconsistencies throughout the state in the collection of taxes on developments. This would standardize the process. Any development could stay idle, with uncollected tax, until the developer moves forward. Since the developer waits until there is a demand, the parcel could stay that way for years.

MOTION: **Rep. Bedke** made a motion to introduce **RS 21234C1**. **Motion carried by voice vote.** **Rep. Burgoyne** requested that he be recorded as voting **NAY**.

RS 21180: **Sen. Brackett** presented **RS 21180**, which is legislation that removes the prohibition and allows the deduction of classroom supplies by elementary and secondary school teachers. Previously, this did not comply with Federal Code.

MOTION: **Rep. Rusche** made a motion to introduce **RS 21180**. **Motion carried by voice vote.**

RS 21189: **Brett DeLange**, Office of the Attorney General, presented **RS 21189**. **Chairman Lake** stated that it would be introduced in the House Revenue and Taxation Committee and when it returns to committee for a hearing, it will be referred to State Affairs.

Mr. DeLange stated that this legislation addresses the introduction and increased use of cigarette rolling machines in Idaho. While previous cigarette rolling was only done in one's home, there are now machines that cost between \$35,000 and \$40,000 that roll 200 cigarettes in approximately 15 minutes. The machine operator makes the cigarette available for consumers' use. These machines have the potential to circumvent current legislation/laws. The use of these machines must still meet current laws. The operator of the machine would be required to certify to the Attorney General (AG) that they comply with the laws. The AG can ensure that those rules are being applied. This will enable the AG to track sales so that duties are performed as required under the Master Settlement Agreement (MSA). Idaho has received over \$300,000,000 in funds under this MSA. This legislation consists of legislative findings and intent, so the courts know why it was created; and definitions, (i.e. an operator is someone who makes cigarettes available commercially). This will not affect someone using a machine in their home. Also included in this legislation are certifications ensuring these machines are not used until registered with the AG and that the operator is only using tobacco approved by the AG (per the MSA Complimentary Act).

There is a directory maintained by the AG, so that the MSA payment is not jeopardized. Using this directory, the AG ensures all tobacco taxes have been paid, that all minors access permits are in place, and that the machines only use products deemed fire safe in compliance with the fire safety act. In conjunction with the youth access issue, no less than 20 cigarettes may be sold at one time. If the machines are in a facility, minors must be excluded. Legislation also requires that tobacco that is used in the machine is purchased from the operator. Forms will be available for certification by the operator. All tobacco wholesalers currently report quarterly to the AG. Operators of these machines would certify their operation annually. The consequence for violation or failure to verify is removal of the machine within ten days. This legislation would prohibit someone from manufacturing cigarettes and then selling them. The machine is for use by others, not for manufacturing, which falls under federal law. It allows for implementation of this act and verification of the fire safety of the tubes.

In response to Committee questions, **Mr. DeLange** state that the AG wants to regulate not ban the machines. Passing this law will eliminate any argument that Idaho is not complying with the MSA. There will be no fees charged by the AG. The reports are similar to current reporting, so probably no additional work will be required. The MSA is fundamentally a public health document, and it benefits the state. Cigarette companies were required to join the MSA or start an escrow account in each state, paying a fee per cigarette sold (which costs are close to the amount for joining the MSA). Money stays in the escrow account in case of a lawsuit. If a tobacco company loses market share, they get an adjustment. In 2003 manufacturers lost close to a 6% market share, or approximately \$1.1 billion. Under the escrow law their market share loss can erase what should be in the escrow account. The manufacturer must be able to show the arbitrator that Idaho did not diligently enforce the law. This legislation shows that Idaho continues to be diligent. The machine owner cannot put the tobacco in, push the button, and then sell the cigarette. The consumer must put the tobacco in and push the button. No fire safe tube is available, so this allows the AG to work with the industry to find an acceptable tube. This helps the industry plan and provide a certainty that the AG won't change things in midstream.

MOTION: **Rep. Ellsworth** made a motion to introduce **RS 21189**. **Motion carried by voice vote.** **Rep. Barrett and Harwood** requested that they be recorded as voting **NAY**.

RS 21223: **Chairman Lake** presented **RS 21223**. The Senate had an error in their concurrent resolution, and they requested that replacement legislation start in the House. Subsection 4 was omitted.

MOTION: **Rep. Ellsworth** made a motion to introduce **RS 21223** and send it directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. Collins** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:16 am.

Representative Lake
Chair

Janet Failing
Secretary