

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

- DATE:** Monday, February 27, 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:** Representative(s) Moyle, Smith(24)
- GUESTS:** Ann Heltsley, Citizen; Bob Fry, Boise County Commissioners; Bob Aldridge, Trust & Estate Professionals of Idaho (TEPI); Jayne Reed, Citizen; Bruce Reay, Citizen; Russell Westerberg, Rocky Mountain Power (RMP); Jeff Sayer and Megan Ronk, Department of Commerce; Melissa Nelson, Idaho Society of CPAs (ISCPA); Cheresse McLain, Boise County; Jeremy Pisca, Potlach; Janet Crouse, Citizen; Cameron Arial, Zions Bank; Elizabeth Criner, Northwest Food Processors Association (NWFFPA)
- Chairman Lake** called the meeting to order at 9:03 a.m.
- Chairman Lake** handed the gavel over to **Vice Chairman Collins**.
- MOTION:** **Rep. Raybould** made a motion to approve the minutes of the February 21, 2012 committee meeting. **Rep. Burgoyne** requested a correction on page 3. The minutes should read: "Mr. Cope, the next testifier, is related to Rep. Burgoyne's wife." **Motion carried by voice vote.**
- H 557:** **Sen. Goedde** presented **H 557**. A previous legislature approved the formation of Port Districts in 1941. Port Districts have typically been associated with water. This change includes railways, roads and air, along international and national trade corridors under the definition of Port District.
- Glen Miles**, Kootenai Metropolitan Planning Organization (KMPO), said Idaho is a part of a big economy, and products are sent around the world. We must be able to respond differently than we did when the original legislation was passed. We must be able to think, plan and strategically invest in long-term infrastructure. **H 557** would allow the four counties that border a national or international trade corridor to promote their counties in a positive manner.
- Interstate traffic is predominantly North to South or East to West. The trade corridors can also include waterways as originally designed. There are two Congressional High Priority Corridors. Idaho has 37 counties that sit on the National Highway System. This legislation extends the same opportunity that the Lewiston-Clarkston Valley has had to other areas of the state.
- In response to Committee questions, **Mr. Miles** said that ports are created by a majority vote. Port Districts have the ability to apply for bonds, but need to have a method in place to collect revenue. There are three types of revenue typically used: the one-tenth of one percent property tax levy, general obligation bonds and industrial revenue bonds. The existing statute states that creation of a Port District that is to encompass multiple counties must start in a single county and annex the other counties in to it. This would create the opportunity to bring in new business. An airport of sufficient size could take advantage of the proposed legislation. There are five major airports along a major highway. Annexation into a Port District requires a vote. The Port District is governed by three independently elected officials. The board members are elected at the time the Port District is created.

Jeff Sayer, Department of Commerce, spoke in **favor of H 557**. He would like to acknowledge the economic development opportunities this tool provides. Twin Falls attracted Chobani. This bill focuses on industrial capacity and infrastructure. He is aware of an area in Idaho with immediate needs that creation of a Port District would help. There is one company thinking about moving into the state and one company who may move out of Idaho due to lack of a Port District solution. This unique opportunity could create up to 450 jobs.

In response to Committee questions, **Sen. Goedde** said a Port District that would be less than a county in size would be required to apply for approval to the County Commissioners. The property tax rates for Lewiston are \$400K lower than the limit allowed. The rate has held the same since the Port District was started.

MOTION: **Rep. Rusche** made a motion to send **H 557** to the floor with a **DO PASS** recommendation. **Rep. Barrett** requested a roll call vote.

SUBSTITUTE MOTION: **Rep. Moyle** made a substitute motion to **HOLD H 557** in committee. Roll call vote was requested. **Motion carried by a vote of 14 AYE, 3 NAY, 1 Absent/Excused.** **Voting in favor** of the motion: **Reps. Collins, Barrett, Moyle, Raybould, Roberts, Schaefer, Wood(35), Bedke, Harwood, Barbieri, Bayer, Ellsworth, Gibbs, Lake.** **Voting in opposition** to the motion: **Reps. Killen, Burgoyne, Rusche. Rep. Smith(24) was absent/excused.**

H 585: **Rep. Roberts** presented **H 585**. This legislation deals with a property tax levy for purposes of paying a judgement against a taxing district. The legislation does not dictate how to pay a judgement. It is a bail-out for Boise County, but no state funds will be used. It establishes that taxpayers of this county will satisfy the judgment against the county and enables the county to take advantage of lower interest rates. This is a narrowly crafted bill.

Bob Fry, Boise County Commission, said the County had a judgement of \$4.5M plus interest as a result of losing a lawsuit. The County has paid \$2.2M against the judgment. All excess funds, pursuant to the Bankruptcy Courts instruction, have been used. This includes road and bridge money as well as highway state/federal money. The Federal bankruptcy judge ordered the County to use the money, regardless of federal and state law. It is not feasible for the County to appeal to the next court. Boise County has exhausted all other avenues. They have a court order to pay the debt with registered warrants and to levy taxes into the general fund. If warrants don't occur, they are required to sue the Tax Commission. The Warrant Redemption Fund has a levy limit of 3% growth. The Tax Commission has discussed all alternatives with three of the four Commissioners, as well as with legal counsel. The alternative is to create legislation to increase levy limits. This saves money in attorney fees for both the State and the County. **H 585** would allow Boise County to secure bonding to pay the debt off.

If the County uses a bonding mechanism, the rate will be between 3.9% and 4.7%. The interest rate on the judgment is 5.5%. Taking a lower interest rate and a five year pay-off would save nearly half the total interest cost. Boise County has historically had low levies. The most significant thing to consider isn't the situation in Boise County but the state of tax law in Idaho. If this issue goes to court as stated by **Judge Winmill**, it could create another mess. The solution would then likely be less clear than any thoughtful action by the legislators. Some constituents are opposed to this solution. They state that this bill is unconstitutional. That is not the case. The Commissioners have held three meetings and public hearings. One hundred or more residents have been in attendance. Once the residents understood the issues, the opposition has ceased and they are supportive. Part of the difficulty is that there are between 3,000 and 4,000 voters in the County and only 100 people have attended the meetings. The County Commission would like to put the issue to the voters in the form of an advisory ballot, but due to timing, that

is impossible. What does this mean to taxes? The legislation will result in a \$38 to \$110 increase depending on rates/terms.

In response to Committee questions, **Mr. Fry** said that if the bill doesn't pass, the County is under court order to sue the Tax Commission.

Ann Heltsley, Citizen, spoke in **opposition to H 585**. She said the bill affects property owners in the entire state not just in Boise County. It should be seen as a violation of the constitutional right to vote on tax increases. She is dismayed that one Commissioner is speaking on behalf of all residents. There have been no notifications of the results to the taxpayers. All actions have been done in Executive Session. The only meetings with the general public were held last week. Why give authority to tax without representation? Perhaps local residents don't want to pay an increase to get the taxing district out of the lawsuit. Perhaps the taxing district needs to be dissolved. Is it legal to backdate the bill to get Boise County out of their predicament? Commissioner Fry shouldn't be speaking for all residents. She requests tabling the bill.

During Committee discussion, the following points were made: The question isn't if the money is owed, it is how it should be paid. The bill isn't to protect Boise County, but rather, the Tax Commission.

Bruce Reay, Citizen, stands in **favor of H 585**.

Jayne Reed, Citizen, spoke in **opposition to H 585**. She said Commissioner Fry is representing himself, not the residents of Boise County. The Judgment Satisfaction doesn't instruct the County to sue the Tax Commission prior to any other solutions. There is overwhelming support for the County to run it's own bond to cover the payment. The County has the money for the February 2013 payment in the bank. There have been no discussions with residents prior to last week. She feels strongly that this bill is the wrong way to go. It should be used as a last resort.

In response to Committee questions, **Ms. Reed** said the County could run a bond for themselves to avoid paying an additional taxing authority. They could enter into a General Obligation bond which would require a two-thirds approval to go over the 3% levy limit.

MOTION:

Rep. Bedke made a motion to **HOLD H 585** in committee.

Cherese McLain, Boise County Prosecutor's Office, spoke in **favor of H 585**. Their outside council has worked extensively to find resolution. This solution passes constitutional muster. It was written primarily by the Office of the Attorney General. It is narrowly written legislation.

Cameron Arial, Zions Bank, spoke in **favor of H 585**. If the bill doesn't pass, the County will have a significant burden that could be impossible to pay. The impact could spill over to other counties and possibly the State. He asked that consideration be given to the cost to the State if an intervention is required. This is a narrowly defined bill that limits the use of it elsewhere. It will allow the County to meet their obligation with reasonable terms and save the taxpayers money by lowering their interest rate.

SUBSTITUTE MOTION:

Chairman Lake made a substitute motion to send **H 585** to the floor with a **DO PASS** recommendation.

During Committee discussion, the following points were made: This is an easy way to bond out and pay off the debt at a reasonable rate vs. accepting whatever terms the County can muster. Some of the committee members wanted to further review the information presented.

**WITHDRAWAL
OF
SUBSTITUTE
MOTION:** **Chairman Lake** withdrew his substitute motion.

**VOTE ON
ORIGINAL
MOTION:** **Chairman Collins** called for a vote on the original motion, to **HOLD H 585** in committee. **Motion carried by voice vote.**

Chairman Collins turned the gavel over to **Chairman Lake**.

Chairman Lake announced that **H 582** and **RS 21289C1**, which were also on the agenda would be presented on Tuesday, February 28, 2012.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:48 am.

Representative Lake
Chair

Janet Failing
Secretary