

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Thursday, March 08, 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 (DeVries), Barbieri, Bayer, Ellsworth, Gibbs, Killen, Burgoyne, Rusche

**ABSENT/
EXCUSED:** Representative Killen

GUESTS: The sign-in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

Chairman Lake called the meeting to order at 9:05 am.

MOTION: **Rep. Collins** made a motion to approve the minutes of the February 22, 2012 meeting. **Motion carried by voice vote.**

MOTION: **Rep. Collins** made a motion to approve the minutes of the February 24, 2012 meeting. **Motion carried by voice vote.**

H 585: **Rep. Roberts** presented **H 585**. Last week there was a meeting that brought together a number of participants; all three Boise County Commissioners, the Tax Commission, legal council for Boise County, and Representatives. The result of that meeting is a draft engrossed version of **H 585**. The amendments are fairly simple. After discussion with all participants and review of budgets and levy rates, a change to the percentile from a .2 percent limit to a .1 percent limit will be sufficient. There will need to be some additional cuts in budgets in Boise County. The amended document makes it clear that the original intent was the ability to acquire a bond to pay a judgement against the County. The big issue is that there is a bill due and payable by Boise County. They currently cannot acquire a bond that exceeds the 3% cap. State mandated services cannot be cut to pay the judgement. The legislation provides a tool to allow the Commissioners to deal with the judgement. This amended version will allow the County to enter into a bond at a lower interest rate than the judgement interest rate.

Bob Fry, Boise County, spoke **in favor** of **H 585**. He said all three Commissioners agree with and support this draft engrossed version of the Bill. It is the best, most businesslike way to deal with the judgement. The County is required to budget as leanly as possible and use any surplus to pay the bond. The goal of the Board of Commissioners is to limit the effect on the taxpayers. The County does not want to bankrupt the taxpayers.

In response to Committee questions, **Mr. Fry** said that contrary to statements made by a previous testifier, there is money in a fund that could be used to make the February 2013 payment, but not the June 2013 payment. The funds that are being referred to would be available assuming no other litigation or other unexpected expenses arise. It is possible for other taxing districts to meet the requirements spelled out in the bill. If it was only for Boise County, it would be unconstitutional. A county can only issue a bond for jails, etc. The court order requires action and there is not enough time to take it to the voters.

John Blatler, Citizen, spoke **in opposition** to **H 585**. He would like time for the citizens and the County to work out a solution.

Jayne Reed, Citizen, spoke **in opposition** to **H 585**. She said the County could get a judicial confirmation and then a vote of the people. The people in Boise County were not included in the decision-making process. She reiterated that the County can make the payments. They do not have to sue the Tax Commission.

In response to Committee questions, **Ms. Reed** said that under a request for a judicial confirmation, Boise County could take a financial analysis to the judge, then he would direct them to ask the people to approve a levy above the 3%. There are other possible options that were not explored.

John Fiedler, Citizen, spoke **in favor** of **H 585**. He employs 10 people in a business in Boise County. This bill enables the County to meet the judgement of the court. He reminded the committee that the majority of the County is owned by the Federal Government.

Terry Day, Boise County Commissioner, spoke **in favor** of **H 585**. In 2008, when extensive legal fees were imminent, the County implemented a cost reduction plan. The County needs to pay off the judgement at a lower interest rate. It would be detrimental to the County to make further reductions.

Ann Heltsley, Citizen, spoke **in opposition** to **H 585**. She said by backdating the bill, it makes it a special interest bill. Why not back date the bill four years to bail out McCall? The citizens in Boise County can form their own taxing district and have offered to do that to pay the judgement. The legislation allows all taxing districts to use this statute. **H 585** is not protecting the people, but the Tax Commission.

Mary Prisco, Boise County Clerk, spoke **in favor** of **H 585**. When she did a county-wide 2013 top level forecast, there was an estimated drop of 8% in revenue. The County has maxed out all the general fund, road and bridge fund, and district court fund levy limits. If there was a 20% cut, it would have to come from county salaries and benefits. The County could not provide services that they are statutorily required to provide. The County has depleted all excess funds in earlier payments. Any legal fees associated with suing the Tax Commission are not included in the forecast or the budget. There would be no way to pay those fees. There is no Capital Asset Replacement Fund. There are old buildings in Idaho City which are facing large repair and maintenance bills.

In response to Committee questions, **Ms. Prisco** said the County Revaluation Fund falls within the assessor's responsibilities, and revaluations occur every five years.

Brent Adamson, Boise County Assessor, spoke **in favor** of **H 585**. He said he has been looking at budget cuts since 2008 due to recession. He has already cut about 20% out of the budget, which included the staff taking a 10% reduction in wages. If he were required to cut an additional 25% out of the budget to pay the judgement, it is not there to cut. His department ended September 30, 2011 about 5% in the black. His budget is based on a best case scenario as is that of the Sheriff's Department. Right now, he is just hoping for the best. His department needs a transmission repaired in a vehicle, but there is no money to do it, so they are actually short a vehicle.

Susan Buxton, Boise County, spoke **in favor** of **H 585**. As legal counsel for Boise County, she tried to work out a settlement with the plaintiff, but was unsuccessful. Idaho law does not allow for a long-term payment plan. The County is asking to exceed the 3% cap when it has already been determined to be ordinary/necessary by the Court. Until this judgement is paid off, the decreased budget won't be changed in the County for many years. There is actually no incentive for any other taxing district to copy Boise County and use this legislation, because it will keep their district very lean for many years.

In response to Committee questions, **Ms. Buxton** said if this bill doesn't pass, the County is under orders from Judge Winmill to pay existing warrants at a 5.5% interest rate over time, and go back to court against the Tax Commission for relief.

Nicole Pantera, Idaho Independent Bank, spoke **in favor** of **H 585**. Idaho Independent Bank is the holder of the security interest. The debt has been incurred, the discussion is the manner of payment.

In response to Committee questions, **Ms. Pantera** said she is unable to disclose the interest rate that is being paid.

Mitchel Tain, Citizen, spoke **in opposition** to **H 585**. Federal court ruled that the County must drain their funds. Is this the only avenue for the County to take? There have been a few public meetings held and there is concern about the debt. With proper education, he believes a levy could pass with a two-thirds vote.

Carl Olsson, Office of the Attorney General, Tax Commission, and Citizen, stated the Office of the Attorney General has no position on this legislation. He is representing the Tax Commission who is **in favor** of **H 585**. He is also a resident of Boise County and is personally **in favor** of **H 585**. It benefits the people of Boise County. He helped write the rough draft of the legislation. As a citizen, he urges passage of the bill. He believes there is a strong possibility when requiring a two-thirds vote, the measure won't pass. There is a lot of anger in the county over the judgement. What doesn't change is the fact that the money is owed. The County tried to declare bankruptcy prior to coming before the Legislature, but the judge ruled against them.

Ben Rover, Boise County Sheriff, spoke **in favor** of **H 585**. He has been tasked by the Commissioners to cut his budget. He is now operating under a best-case scenario. Any cuts will affect the safety of the public.

RJ Twilgear, Boise County Prosecuting Attorney, spoke **in favor** of **H 585**. If he is required to cut his budget 20%, he would cut the part-time deputy who solely deals in civil matters.

Rep. Roberts said this is a benefit to the taxpayers of Boise County. It provides a tool to satisfy a debt already due and payable. All the options are unattractive. If this bill is passed, Boise County property taxes go up. If this bill fails, the County is required to sue the Tax Commission and will result in more legal fees. Taxes will go up, no matter what.

In response to Committee questions, **Ms. Buxton** said if the committee chooses to do nothing, the County will be forced to sue the Tax Commission. It is possible to judicially confirm a debt, but that doesn't change anything. The bankruptcy judge has already stated that a warrant reduction levy does not provide exception to go over the 3% cap. The levy limit is currently at its maximum. Trying to pay the \$811K required each year will exceed the cap. Nothing in the law specifically addresses judgements since the 3% cap was enacted. This scenario probably won't re-occur. Yes, a warrant is an ordinary and necessary expense. The judge can order this warrant to be paid. The court already found that this is the vehicle to be used. The judge can't order a bond.

MOTION:

Rep. Burgoyne made a motion to send **H 585** to General Orders with amendments attached. **Rep. Rusche** seconded the motion.

In Committee discussion, the following comments were made: **Ms. Buxton** pulled all the testimony together. The indebtedness exists. This bill is very unusual. It could be used to give other local taxing districts a method for bailout. There is a concern that the 3% cap could be determined to be unconstitutional. Will this affect the Local Improvement District in Kuna? This opens the door for other taxing districts to bring their own bills to fix their problems.

This doesn't bail out any county. It provides a vehicle and tool to save the taxpayers money in a manner that is most efficient and prudent.

David Langhorst, Tax Commission, responded to Committee questions by saying that the State of Idaho has an outstanding credit rating but if one area of the State can't make payments on time, that will affect the others. It has been mandated that the Tax Commission be sued if the issue isn't resolved. The suit will incur a large amount of legal fees.

Additional Committee discussion resulted in the following statements: Who can say that the Tax Commission will not win. The judge will only say the bill must be paid. The County will be an unwilling party to a lawsuit against the state, because the 3% cap wasn't well thought out. Previous legislators didn't contemplate a set of circumstances that doesn't fit the cap.

**ROLL CALL
VOTE:**

Rep. Moyle requested a roll call vote on the motion to send **H 585** to General Orders with amendments attached. **Motion carried by a vote of 9 AYE, 8 NAY and 1 Absent/Excused. Voting in favor of the motion: Reps. Collins, Raybould, Roberts, Smith(24), Bedke, Gibbs, Burgoyne, Rusche, Lake. Voting in opposition to the motion: Reps. Barrett, Moyle, Schaefer, Wood(35), Harwood(DeVries), Barbieri, Bayer, Ellsworth. Rep. Killen was absent/excused. Rep. Roberts** will sponsor the bill on the floor.

ADJOURN:

There being no further business to appear before the committee, the meeting was adjourned at 10:52 am.

Representative Lake
Chair

Janet Failing
Secretary