

# House Local Government Committee

Minutes  
2005



## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

**DATE:** January 24, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:**

**GUESTS:** Daniel Chadwick, IAC; Ken Harward, AIC; Leon Duce, AIC; Justin Ruen, AIC; Mandy De Castro, AIC; Amy Norton, AIC; Ken Miller, NW Energy Coalition; Jessica Krebs, UVI; Michael Werner, UVI; Ryan Shriner, Intern, AIC; and Ray Millar, DHW

The meeting was called to order by Chairman Barrett at 1:37 pm.

**Dan Chadwick, Executive Director, Idaho Association of Counties**, gave a brief overview on the role and responsibilities of county government. The fundamental legal framework for county government in Idaho is found in the Idaho Constitution. It prescribes the elected county officials and their terms of office; contains detailed provisions on county boundaries, and provides for optional forms of county government. All county officials are elected.

The Idaho Constitution establishes parameters and boundaries for counties, and they cannot be formed otherwise, however it does not prescribe parameters and boundaries for cities. Cities do not have to exist, whereas counties do.

The county is continually criticized in regard to property taxes. Even though the county is the administrator of the property taxes, they only use approximately 25 percent. They are charged with carrying out state policy at the local level. They also have tax enforcement responsibility

The counties are responsible for our election policy as well as public safety. In its duties, the county has jurisdiction and responsibility in all three branches of government, the executive, judicial and legislative branch.

**Mr Chadwick** felt this information might be helpful to the new members on the committee. He then presented the counties 2005 legislative package which is attached to these minutes as Schedule "A".

Legislation on "Rural Homesite Development", and "Enhanced Revenue for Alcohol Related Indigent Claims and/or Substance Abuse Treatment" will probably go before the Revenue and Taxation Committee.

Legislation on "Recording Fee Updates and Authority", "Technical Changes

Relating to Technology”, and “Community College Tuition” will likely come before this committee.

Legislation on “Local Highway Economic Investment Program” will be a Transportation Committee issue and “Coroner’s Investigations” is a Judiciary and Rules Committee issue.

“Illegal Aliens” is a Health and Welfare Committee issue. Health and Welfare is seeking to bring a cause of action against employers on knowingly employing illegal aliens.

**Ken Harward, Executive Director of the Association of Idaho Cities**, introduced staff members who were in attendance at the meeting, Justin Ruen, Leon Duce, Mandy DeCastro, Amy Norton, and interns from Meridian, Andrew Law and Ryan Shriner.

**Mr Harward** stated the word city comes from the Latin root word “civis” which is also the root word for civilization. There are 200 cities in Idaho and there are choices in type and level of services provided by a city.

**Mr Harward** presented the 2005 legislative priorities for the Association of Idaho Cities, which is attached to these minutes as Schedule “B”.

A task force has been working for several months in going through the Idaho Code on those sections dealing with publication of legal notices. They have found a number of inconsistencies and any legislation in this regard will go before the Judiciary and Rules Committee.

A task force has been working to update and clarify city records retention laws. This legislation could come before this committee or possibly the State Affairs Committee.

They are hoping to provide statutory procedure for merging water/sewer districts with municipal water/sewer systems and this legislation should come before this committee.

Legislation to make necessary changes to the Idaho Bond Bank statutes will be a State Affairs issue.

There is another task force that has been working on Public Works licensing and bidding recommendations attached as Schedule “C”. This will likely go before the Business Committee.

Mr Harward was asked if they were going to pursue legislation seeking equalization on insurance for city and county employees. The response was it is something that will be discussed at the cities legislative meeting.

**ADJOURN:** There being no further business, the meeting was adjourned at 2:50 pm.

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Representative Lenore Barrett  
Chairman

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Barbara Lee Allumbaugh  
Secretary

## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

**DATE:** February 2, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:**

**GUESTS:** Stu Davis, AHD; Tony Poinelli, IAC; Marvin Bingham, Minidoka County; Dar Olberding, IGPA; Ken Miller, NW Energy Coalition; and Roger Seiber, Capitol West

The meeting was called to order by Chairman Barrett at 1:30 pm.

**MINUTES** **Representative Chadderdon** moved that the minutes of January 24, 2005, be approved as written.

**VOTE** **ON A VOICE VOTE THE MOTION CARRIED.**

**RS 14637C1** **Tony Poinelli, Deputy Director of the Idaho Association of Counties,** presented this legislation which will allow a longer period of time for students to complete their community college courses, will extend the period of time when community colleges submit enrollment information to the county commissioners, and makes some minor grammatical corrections.

Currently Idaho Code allows that counties pay a portion of a resident student's community college tuition not to exceed \$500 each semester for a two semester year for a full time student up to six semesters which would be a total of \$3000.00

The purpose of this legislation is to recognize that community college students today do not always complete their education within six semesters, because they often have to work for a living while working towards a college degree. This legislation leaves the county exposure at a \$3000.00 lifetime cap, but would allow a longer period of time for students to complete their community college courses, thus deleting the six semester cap

This legislation would also extend the time when the community colleges submit the enrollment information to the county commissioners by an additional fifteen days, thus still remaining with the current county fiscal year.

County Commissioners and community colleges participated in discussions on this legislation.

The question was asked how Bob Kustra, President of Boise State University plans to implement a community college in Boise, which he has been discussing. Mr Poinelli did not have an answer for that. Community colleges

are covered under the Idaho Statute and they are taxing districts. At the present time, Boise does not have a community college taxing district.

**MOTION:** Rep Pasley Stuart moved that **RS 14637C1 be introduced for print.**

**VOTE** ON A VOICE VOTE THE MOTION CARRIED.

**RS 14532**

**Jim Kempton, Northwest Power Planning Council**, presented this proposed legislation which will establish several new sections in Idaho Code that provide opportunities for County Commissioners to consider the distribution of tax revenues for certain local tax districts, the boundary of at least one being contiguous with one or more districts formed for the same purposes, and that same boundary existing within five (5) miles of a property, or properties, taxed on the basis of development and operation for the commercial purpose of generating and marketing electricity utilizing wind.

Local tax district boundaries within any given county would be adjusted by County Commissioners based on considerations of merit for equitable and economical operations between competing tax districts formed for the same purpose.

Mr Kempton stated there was debate on both sides of the issue of wind farms. An extremely important issue is the distribution of revenues. Due to our tax distribution schedule, entities could lose almost as much as they gain.

This legislation will allow County Commissions to adjust the boundaries to equalize for equitable and economical operation by the competing tax districts formed for the same purpose.

He further stated we will be seeing more wind farms. They are big money producing enterprises.

**MOTION** Rep Clark moved that **RS 14532 be introduced for print.**

**VOTE** ON A VOICE VOTE THE MOTION CARRIED.

**ADJOURN:** There being no further business, the meeting was adjourned at 2:08 pm.

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary

## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

**DATE:** February 14, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:** Representative Collins

**GUESTS:** Fred Tilman, Ada County Commissioner and Tony Poinelli, Idaho Association of Counties

Chairman Barrett called the meeting to order at 1:32 pm

**MINUTES:** **Rep Bradford** moved that the minutes of February 2, 2005, be approved as written.

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED.**

**H 103**

**Fred Tilman, Ada County Commissioner, representing the Idaho Association of Counties** presented this legislation which is to recognize that community college students today do not always complete their education within six semesters, because they often have to work for a living while working towards a college degree. This legislation leaves the county exposure at a \$3000.00 (three thousand dollars) lifetime cap but would allow a longer period of time for students to complete their community college courses. The legislation would also extend the time by an additional fifteen days when the community colleges submit the enrollment information to the county commissioners. This additional time still remains within the current county fiscal year.

The two Idaho community colleges are funded as two separate taxing districts. By Idaho statute, the other counties are obligated to pay out-of-district tuition. Idaho statute further established a funding source for this tuition from liquor funds of the State of Idaho. This plan has been in the Idaho Statute for a number of years.

In the past students pretty much had to go to the campus to attend school, and could probably complete their schooling within the six semester time frame. This is changing in today's world with the capability of internet. In the past the county would only pay for six semesters. Today students might be taking only one course per semester. This bill is now saying counties will pay a life time liability of \$3000.00. It is removing the six semester cap.

The bill further extends the time for tuition aid applications from the college to the county commission from September 30 to October 15. This will take care of those students trying to make up their mind if they are going to take a particular course. This change will avoid back and forth billing and will

alleviate the billing process.

**Rep Kemp** asked if a student could go to multiple community colleges and still take advantage of the tuition aid.

**Commissioner Tilman** stated they could. They are setting up a tracking system on the application form, which will allow prevent them from exceeding the \$3000.00 tuition limit.

**Rep Kemp** asked about the number of students taking advantage of this tuition and what would happen if they ran out of funds.

**Commissioner Tilman** stated the funds come from the Idaho liquor fund. If the amount received from this fund by the county is not enough, the county commissioners can assess additional taxes to cover the cost. If they choose not to do this, county commissioners can determine who goes to school and who does not. This has not been a problem to date, even though community college enrollment has been increasing yearly.

This legislation provides a level playing field. The counties forming taxing districts did not think it was fair that those students coming from other counties be allowed to attend school for the same tuition rate as those students from the taxing districts.

**MOTION:** **Rep Clark** moved that **H 103 be sent to the floor with a DO PASS recommendation.**

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED.**

**ADJOURN:** There being no further business the meeting was adjourned at 1:53 pm.

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary

## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

- DATE:** March 2, 2005
- TIME:** 1:30 pm
- PLACE:** Room 408
- MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe
- ABSENT/  
EXCUSED:**
- GUESTS:** Lynn Moser, Eagle Sewer District; Randy Lake, Eagle Sewer District; Ryan Shriner, AIC; Don Munkers, IRWA; Andrew Law, AIC; Doug Strickling; Reed McCashland, Meridian; Rick Baird, Mayor of Carey; Tess Cenemia, Carey; Vonnie Olsen, Carey, Neal Oldemeyer, Boise; John Tensen, Boise; and Leon Duce, AIC
- Chairman Barrett called the meeting to order at 2:31 pm
- MINUTES:** **Rep Pasley-Stuart** moved that the minutes of February 14, 2005, be approved as written.
- VOTE:** **ON A VOICE VOTE THE MOTION CARRIED.**
- H 271** **Rep Eskridge** presented this legislation which will establish a statutory process for water/sewer districts to consolidate with city water/sewer systems. The legislation sets forth certain requirements that must be met prior to consolidation. There are several situations in the state where consolidating these systems would be a benefit, but currently there is no statutory process for accomplishing this.
- Rep Eskridge** presented a complete summary of **H271** which more fully explains the necessity and details the proposed process. This summary is attached to these minutes as Attachment A.
- Don Munkers, Idaho Rural Water Association**, stated his association supports this legislation and would recommend this bill be passed.
- Rick Baird, Mayor of Carey**, stated he has had input into this legislation. He feels it would be a benefit to combine systems in some instances and supports this legislation.
- Rep Bayer** asked about transfer of the assets of the district as written in the legislation under Section 42-3239.
- Ken Harward, Executive Director, Association of Idaho Cities**, pointed out the key word in the language of the legislation is "may" and that it is not mandatory.
- Rep Bayer** further asked if it was possible a city could end up with land in

the county according to the terms of the legislation. The answer to this is yes, and **Mr Harward** stated there are instances today where the city owns land in the county. However, for this to happen, it would still need to go through the patron voting process.

Rates after consolidation must be uniform based upon the cost of doing business. This legislation would not interfere with any contracts in existence or signed in the future. It is merely a mechanism for consolidation.

**MOTION:**            **Rep Bradford** moved that **H 271 be sent to the floor with a DO PASS recommendation.**

**VOTE:**            **ON A VOICE VOTE THE MOTION CARRIED.**

**ADJOURN:**        There being no further business, the meeting was adjourned at 2:46 pm

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary

## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

**DATE:** March 8, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:** Rep Clark

**GUESTS:** Susan K Howard, IAC, Gem County Clerk and Brian Kane, Office of the Attorney General

Chairman Barrett called the meeting to order at 1:32 pm.

**MINUTES:** Rep Kemp said she had requested that the minutes reflect that she asked about S1104 and if it was going to be before the committee. Chairman Barrett responded that if it was brought before the committee she would have an opportunity to vote on it. A further correction is that the minutes should show that Rep Eskridge and Rep Shepherd (8) were sponsors of H 271.

**Rep Bayer** moved that the minutes of March 2, 2005, be approved **as corrected**.

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED.**

**H 266** The purpose of this legislation is to enable the County Recorder to utilize new electronic storage technology as approved by the county, and authorizes the use of electronic records as official records of the county, including electronic indexing.

This legislation also provides some protection for the County Recorder for refusing to record a document, which, in his/her discretion, and after consulting with the County Prosecuting Attorney, is not authorized to be recorded. In addition, the recorder may provide for public access terminals so the public can view electronically stored recorded documents.

This legislation further adds a provision protecting the County Recorder from liability when providing copies of recorded documents after payment of a fee as required by law.

**Susan Howard, Gem County Clerk**, stated this legislation adds new terms to Section 31-2401, Idaho Code, to provide for electronic storage methods for records. Electronic technology will further help with records they need to keep, but records the public should not see. The Recorder has custody of and must keep all books, records, maps and papers deposited in this

office and this legislation allows those records to be kept within an approved

electronic storage system.

**Rep Pasley-Stuart** asked whether the counties had talked to the Idaho Historical Society and the state archives in regards to this legislation.

**Susan Howard** responded they are constantly in contact with them.

**Chairman Barrett** asked if they had a statutory obligation to talk to the Historical Society about records storage.

**Susan Howard** stated they did.

She further stated they would use passwords for the public to use when they wanted to look at and print records. If the system becomes obsolete they will update it.

**Rep Henderson** asked if there was any intent to get rid of old records.

**Susan** stated they had many old books in their archives and she would not want to see them get rid of them as so many people come in to look at them. She said there are 44 different counties in the state, 44 different budgets and 44 different levels of technology. Some counties are rapidly moving to electronic technology and others are far from utilizing it. The systems that are in use seem to be compatible, but they have not verified this for certain.

**Rep Boe** questioned the gender use in the legislation. She would not suggest that it go to general orders, but merely mentioned it so that, in the future, it can be corrected as changes are made to this statute.

**Rep Chadderdon** stated that on Page 2, Lines 27 - 30, it states the recorder may refuse to record any document. She asked for an example of what the recorder might refuse.

**Susan Howard** said that sometimes people will bring in liens to be recorded that are not legal. Sometimes people will bring in wills and want them recorded. They have to advise these people that once a will is recorded it becomes a public document.

**Rep Bayer** pointed out that on Page 5, Lines 40 - 43 it mentions the recorder may provide one or more public access terminals. He wanted to know if there were locations in the state where public access terminals were not available.

**Susan Howard** stated there probably were some since some counties have not moved very far along in electronic technology recording.

**Brian Lane, Office of the Attorney General**, stated this legislation is to protect the systems we have but it is not intended that the counties be asked to get up to speed. The counties are all operating at different levels in this area, and some are not using electronic technology at all. In time they will.

**MOTION:**

**Rep Collins** moved that **H 266 be sent to the floor with a DO PASS recommendation.**

**VOTE:**                   **ON A VOICE VOTE THE MOTION CARRIED.** Rep Henderson will sponsor the bill.

**ADJOURN:**           There being no further business, the meeting was adjourned at 2:55 pm

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary

## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

**DATE:** March 10, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:** Rep Clark

**GUESTS:** Jim Kempton; Dan John, Idaho Tax Commission; Maggie Colwell, IAC; Jerry Deckard, Capitol West; and Ron Anderson, Idaho Fire Chiefs

Chairman Barrett called the meeting to order at 2:03 pm.

**H 285** **Rep Stevenson** stated this bill was a rewrite of H 104 and allows some equity to come between districts when you have these wind farms. The original bill referred to highway district boundaries and this new bill includes cemetery districts and fire protection districts.

**Jim Kempton**, stated this bill does not apply to any one wind farm. It is for a larger type of wind farm that generates more than 10mw of power and would allow balanced use of the system in place. Highway districts were put in place for very specific purposes.

If you have a wind farm operating across highway district boundaries, the county commissioners will add an economic consideration of the wind farm. Counties can do this today with other entities. This legislation adds this same consideration to highway districts, cemetery districts and fire protection districts.

This legislation is not a matter of trying to be unfair to these other district commissions, it is merely trying to provide an equitable economical balance. People in these districts are not elected to be tax specialists in the same way as county commissioners.

Value of wind farms when newly constructed will be used when the county budget is set. If the value drops in a few years, but budget has been set with the higher value, and the taxpayer will have to make up the difference.

**Rep Henderson** asked Dan John who appraises wind farms for tax purposes.

**Dan John, Idaho Tax Commission**, stated it depended upon who owned the facility. It could be either the Tax Commission or the County Assessor. The wind farm could be a private enterprise or a utility. Mr John further stated some counties will contract out these appraisals since they do not

always have an expert on their staff for industrial appraisals. Many even ask

the Tax Commission to make the appraisal.

**Rep Kemp** asked what the correlation was between cemetery and fire protection districts and what these different boundary changes had to do with one another.

**Mr Kempton** replied all district boundaries and ability to change were set up differently. Most all districts have a 3% property tax cap and there is a very small window for evaluation with new construction. If this legislation is not passed, some districts will lose out on that window.

**Rep Henderson** asked if it was necessary to change the district boundaries to get the more balanced distribution.

**Dan John** replied that the Tax Commission cannot take tax dollars from one district to another. There would have to be legislation to change the boundaries.

**Rep Bayer** wanted to know the parameters for five miles, five electrical generators and greater than 10mw.

**Mr Kempton** replied that 2mw is now considered normal for a wind tower and there would be no real need to consider a change of fewer than five generators.

**Jerry Deckard, Capitol West**, representing the Idaho Association of Highway Districts, spoke against this legislation. This situation could be likened to two highway districts, one has 4 miles of road and the other district that had 220 miles. Logic may be said to hold this bill in committee and take another look at it especially when legislation has more questions than answers. He thinks this change of boundaries can be done today.

**Ron Anderson, Idaho Fire Chiefs**, said his organization supports the concept, but the legislation is written with no mention of wind farms. He thinks one fire district could, through their commissioners, go to the county commissioners and ask for a change in the district boundaries if they felt the other fire district had more population. The fire districts are opposed to this legislation, not opposed to the intent.

**Chairman Barrett** said it appears that this boundary change can be handled by the counties today. She would recommend leaving it up to the counties.

**Rep Kemp** asked if the cemetery or fire districts could not go to the county commissioners today for these boundary changes.

**Rep Stevenson** said, that according to statute, county commissioners cannot change cemetery district and fire district boundaries without going to a vote of the people. Wind farms have to go where the wind is, not where the people are. If the process is followed by going to a vote of the people the window of opportunity for wind farms would be lost. This legislation is specifically written to accommodate this small window. Any other boundary change would have to go through the regular process.

**Rep Kemp** is still confused about the necessity of this bill. She does not see any reference to wind farms in the sections covering cemetery district and fire protection districts. She asked if it was only because of the 3% cap only in the year of the initial construction that this would be necessary.

This is a task for the county commissioners whether this legislation is passed or not.

**Rep Henderson** thinks this problem can be solved by giving the county commissioners the authority to change boundaries for equitable distribution.

**Dan John** stated this could not be done universally since there would not be a levy rate that would be common. It would be a very complex situation.

**Rep Collins** feels that even if this legislation does not pass it is not going to make any difference in the wind farms.

**MOTION:**

**Rep Bayer** moved to **HOLD H 185 in committee until Monday, March 14, 2005**. He makes this motion as he feels there is more information needed and also the fact a letter from the Idaho Association of Counties opposing this legislation was received at the very last minute. He doesn't know if amendments are the way to go or if there is some other solution, but there are some omissions and problems with the bill.

**Rep Pasley-Stuart** would like to see this go forward but does see some problems.

**Rep Collins** said he would not vote against the motion, but did not see the parties involved in implementation coming to the table.

**Chairman Barrett** asked if the people opposed to this bill would work on helping to fix it.

**Ron Anderson** could not speak for his association.

**Jerry Deckard** thinks that it can be done today. If they are trying to distribute the wealth on public roads they will never reach an agreement.

**VOTE:**

**ON A VOICE VOTE THE MOTION CARRIED.**

**ADJOURN:**

There being no further business, the meeting was adjourned at 3:08 pm.

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary

MINUTES

**HOUSE LOCAL GOVERNMENT COMMITTEE**

**DATE:** March 14, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:** Rep Boe

**GUESTS:**

Chairman Barrett called the meeting to order at 2:27 pm.

**MINUTES:** **Rep Bradford** moved that the minutes of March 10, 2005 be approved as written.

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED**

**H 285** This legislation was heard on March 10, 2005 and held until today. **Rep Stevenson** stated that, after the meeting last week, he and **Mr Kempton** felt it would be best to hold this bill in committee. **Rep Stevenson** said he appreciated the comments and suggestions made by **Rep Kemp and Rep Henderson** following the meeting. It seems the time is not right and this particular legislation is not right.

**Rep Stevenson** suggested the committee might also want to hold **H 104** which was the original piece of legislation written on boundary exchanges for wind farms. **H 285** was a rewrite of **H 104**.

**MOTION:** **Rep Bayer** moved that **H 285 and H 104 be HELD in committee.**

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED.**

**ADJOURN:** There being no further business the meeting was adjourned at 2:30 pm.

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary

## MINUTES

### HOUSE LOCAL GOVERNMENT COMMITTEE

**DATE:** March 22, 2005

**TIME:** 1:30 pm

**PLACE:** Room 408

**MEMBERS:** Chairman Barrett, Vice Chairman Bayer, Representatives Collins, Bradford, Clark, Chadderdon, Henderson, Kemp, Pasley-Stuart, Boe

**ABSENT/  
EXCUSED:**

**GUESTS:** Jerry White, Robie Creek Volunteer Fire Department and David Haney, Robie Creek Volunteer Fire Department

Chairman Barrett called the meeting to order at 3:24 pm.

**MINUTES:** **Rep Kemp** moved that the minutes of March 14, 2005 be approved as written.

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED**

**S 1104** **Senator Tim Corder** presented this legislation which will add a new section to Idaho Code that will provide that Volunteer Fire Departments may collect a service charge, based on a published schedule of charges, provided certain conditions are met. The bill further defines "Volunteer Fire Department" and requires an agreement between the department and a validly organized political subdivision. It provides conditions for collection, report filing and failure to pay procedures.

The situation that brought this legislation about is that the renter of a house was gone for the day. While gone, the house caught on fire. His brother was staying at the house with the renter's two children. He got the children out and ran to the neighbors and asked them to call the fire department. The neighbor called 911 and reached the Boise County Sheriff's office and it contacted RCVFD (Robie Creek Volunteer Fire Department). They did not save the house, but kept the fire from spreading to the surrounding areas.

RCVFD is a non-profit corporation and is not a fire protection district organized under Idaho Code. It sends an annual membership fee billing statement to property owners within its coverage area in the amount of \$65.00 per year, and non-members who receive services are liable for the entire cost of the bill. The landowner did not pay these fees and denies receiving such statements.

RCVFD charged over \$12,000 for this service and a bill was sent to the landowner for payment. He paid the fire department \$500 which was the amount he received from his insurance company. The fire department took the landowner to court. The court case said no.

There are nine other volunteer fire departments in Idaho that are subject to this same situation.

The landowner in this case did not make the call to the fire department. In the absence of any legal basis, the court had no authority to authorize payment of the bill.

The evaluator in the case said "There is no legal basis for RCVFD charging for their services under the facts in this case".

In Judge Stricklin's decision and order, she said "First, the law is clear that a non-profit corporation has no authority to impose charges on non-members and further, a non-profit corporation cannot compel a person to become a member. In the absence of any legal basis, the Court has no authority to impose an obligation to compensate a volunteer".

Under this legislation citizens would be notified what the fees are and what they are required to pay. The fees charged are established by the State Fire Marshal. Property owners could opt out of this and, in this case, they must make a written notice of their intent to opt out.

**Chairman Barrett** asked why not make this a taxing district. The response, generally, because they cannot get enough votes to form a taxing district. She further asked how this particular type of volunteer fire department comes about and by what authority. The response is that statutory authority exists to allow the county to make these agreements.

It would seem to **Chairman Barrett** that if people do not want a taxing district, many are going to opt out of this agreement, which this legislation will allow them to do. These groups have been working well until this one situation came about and a court case ensued. Then they come to the legislature to take care of the situation, which is done all the time.

**Rep Clark** asked if any of the other volunteer fire departments were north of the Salmon River. The other volunteer fire departments are in Cassia, Latah, Nez Perce, Boundary, Boise and Ada Counties.

**Rep Kemp** asked what are the other type emergency services referred to in this legislation. Response is that it might be moving a vehicle, getting a dog out of a locked car, an accident, etc. She further asked why 30 days was allowed for submitting a bill. **Senator Corder** responded that 30 days is the maximum. These volunteers might have other jobs and this allows them time to get the billing submitted. **Rep Kemp** said the bill makes reference to the legislative body of the political subdivision and she wanted to know who that was. In most cases it would be county commissioners.

**Rep Bayer** asked about the insurance payment of \$500 when the actual billing exceeded \$12,000.00. **Senator Corder** assumed the property owner probably looked for inexpensive insurance rather than what they would pay on fire fighting.

**Rep Nielsen** stated he had nothing further to add to the testimony, that **Senator Corder** had covered it all.

**Jerry White, RCVFD**, signed up to testify, but stated he would defer to David Haney.

**David Haney, RCVFD**, stated he had over 20 years in the service in many different locations. He was very surprised when he found this RCVFD did not have a right to collect from insurance companies. With this legislation the volunteer fire department can collect directly from the insurance company. Without it, the insurance company pays the insured and the insured pays the volunteer fire department.

**Mr Haney** stated that all the equipment he uses is old and well used, as they are not a taxing district and do not have any money. In addition to fighting fires, they responded to over 60 accidents and, in some instances, had to serve as an EMT until emergency services arrived.

**Rep Clark** stated that initially he found nothing wrong with this bill but now he asked if this was a stepping stone to forcing a taxing district. **Mr Haney** stated he would not use the word "forcing" but would use "encouraging".

**MOTION:** **Rep Collins** moved that **S 1104 be sent to the floor with a DO PASS recommendation.**

**VOTE:** **ON A VOICE VOTE THE MOTION CARRIED.** Chairman Barrett and Rep Clark are recorded as voting no. Rep Nielsen and Rep Wills will sponsor this legislation.

**ADJOURN:** There being no further business, the meeting was adjourned at 4:10 pm.

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Representative Lenore Barrett  
Chairman

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Barbara Allumbaugh  
Secretary