

House Local Government Committee

Minutes
2010



MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

- DATE:** February 10, 2010
- TIME:** 1:30 p.m.
- PLACE:** Room EW05
- MEMBERS:** Chairman Barrett, Vice Chairman Bilbao, Representatives Collins, Clark, Bayer, Chadderdon, Henderson, Labrador, Boe, Burgoyne, Higgins
- ABSENT/
EXCUSED:**
- GUESTS:** Donna Peterson, Idaho Association of County Treasurers; Tony Poinelli, Idaho Association of Counties (IAC); Seth Grigg, IAC; Major Ben Wolfinger, Kootenai County Sheriffs Office
- The meeting was called to order at 1:31 p.m. by Chairman Barrett.
- RS 19476:** **Tony Poinelli**, Deputy Director for the Idaho Association of Counties, presented **RS 19476**. This legislation would remove the County Clerk from the requirement to supervise the destruction of county records. Elected officials or department heads whose records are being destroyed would be responsible for supervising the destruction instead.
- In response to questions, Mr. Poinelli stated that the current record keeping process would stay in place, with the only change being at the end when records are destroyed.
- MOTION:** **Representative Bilbao** moved to introduce **RS 19476**. **Motion carried on a voice vote.**
- RS 19478:** **Ben Wolfinger**, Major at the Kootenai County Sheriffs Department, presented **RS 19478**. It is common to have Warrants of Distrain issued for unpaid personal property taxes where the delinquency is ten dollars or less. Current statute mandates that a warrant be issued and that the Sheriff execute the warrant. This costs the county more than it receives if taxes are paid in full, often hundreds of dollars. **RS 19478** makes the issuance of Warrants of Distrain optional based on a threshold limit set by the Board of County Commissioners. The limit cannot exceed 1.5 times the actual amount that it costs the county to process the warrant. For delinquent accounts that fall below the threshold, the Treasurer may use a private collection agency to attempt recovery.
- In response to questions, Mr. Wolfinger stated that a Warrant of Distrain is issued only for delinquent personal property taxes. Delinquent is defined by current law as one day or more past due. Private collection agencies set flat fees for collecting. The collections process currently set in statute is the issuance of a Warrant of Distrain. There is no provision for using small claims courts. All related counties have endorsed this proposed legislation.

MOTION: **Representative Clark** moved to introduce **RS 19478. Motion carried on a voice vote.**

RS 19479: **Donna Peterson**, Treasurer of Payette County, representing the Idaho Association of County Treasurers, presented **RS 19479**, which would allow a Board of County Commissioners to establish a fee for issuing a Warrant of Distrain that reflects the actual cost for each county. Procedures followed by county treasurers may include sending letters prior to the issuance of a Warrant of Distrain, giving the taxpayer 30 days to pay, making calls to remind taxpayers of deadlines, and providing county sheriffs with copies of Personal Property Declarations and pictures of manufactured homes.

In response to questions, Ms. Peterson stated that she does not know what the actual cost of issuance would be for each individual county, however, there is language that states that fees will only reflect actual cost.

MOTION: **Representative Boe** moved to introduce **RS 19479. Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:47 p.m.

Representative Lenore Barrett
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

- DATE:** February 12, 2010
- TIME:** Immediately Upon Adjournment of the House
- PLACE:** Room EW05
- MEMBERS:** Chairman Barrett, Vice Chairman Bilbao, Representatives Collins, Clark, Bayer, Chadderdon, Henderson, Labrador, Boe, Burgoyne, Higgins
- ABSENT/
EXCUSED:** Representative Clark
- GUESTS:** Benjamin Davenport, Risch Pisca; Zach Hauge, Capitol West; Jeremy Pisca, Risch Pisca; John Eaton, Realtors; Kelsie Moyle; Conner Cook; Seth Grigg, Idaho Association of Cities; Erik Makrush, Idaho
- The meeting was called to order at 11:56 a.m. by Chairman Barrett.
- MOTION:** **Representative Chadderdon** moved to **approve the minutes of February 10, 2010** as written. **Motion carried on a voice vote.**
- RS 19566:** **Representative Moyle** presented **RS 19566**. Idaho Code Section 12-177 does not permit an award of costs and attorney fees to prevailing parties in court cases between governmental entities. It does allow awards of costs and attorney fees between a state agency, a city, a county, or other taxing district and a private person, which includes individuals, partnerships, corporations, and associations. Awards are only made if the non-prevailing party has pursued or defended the case without a basis in fact or law. **RS 19566** would allow a governmental entity that is sued by another governmental entity to recover costs and attorney fees, which could create a disincentive for lawsuits between them.
- MOTION:** **Representative Henderson** moved to **introduce RS 19566**. **Motion carried on a voice vote.**
- RS 19568C1:** **Representative Luker** presented **RS 19568C1**, legislation that would amend the Community Infrastructure District (CID) law found in Chapter 31, Title 50, Idaho Code. Changes to language would be made, reflecting that changes that "primarily" benefit the district would be required, rather than changes that "directly or indirectly" benefit the district. It would include growth related improvements to public schools in the definition of "community infrastructure," and would eliminate the addition of non-contiguous property to CID. It would provide for submission of written testimony before a hearing to create a district, in addition to testimony presented at the hearing. It would clarify the methods for designating CID employees in districts that contain multiple county or city jurisdictions. It would qualify the use of easements to the extent consistent with existing ownership rights. It would change the maximum outstanding principle amount for general obligation bonds and other debts from 12% to 7% of the adjusted market value of taxable real property in a given district. It would eliminate discretionary use of special assessment bonds by the

district board and would limit the use of special assessment bonds. It would repeal Section 50-3113, which would allow for an administrative expense levy, and it would increase appeal time for district creation or board actions from 30 to 60 days.

MOTION: **Representative Labrador** moved to introduce **RS 19568C1**. **Motion carried on a voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 12:05 p.m.

Representative Lenore Barrett
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 18, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Barrett, Vice Chairman Bilbao, Representatives Collins, Clark, Bayer, Chadderdon, Henderson, Labrador, Boe, Burgoyne, Higgins

**ABSENT/
EXCUSED:** Representative Labrador

GUESTS: Ben Wolfinger, Kootenai County Sheriff Department; Donna Peterson, Idaho Association of County Treasurers; Tony Poinelli, Association of Idaho Cities; Zach Hauge, Capitol West; Roger Seiber, Capitol West; Scott Spears, Ada County Highway District; Carter Froelick, M3; Jeremy Pisca, M3; Eric Bair, Idaho Farm Bureau; James Williams, Idaho Farm Bureau

The meeting was called to order at 1:32 p.m. by Chairman Barrett.

MOTION: **Representative Bilbao** moved to **approve the minutes of February 12, 2010** as written. **Motion carried on a voice vote.**

H 535: **Representative Clark** presented **H 535**, a trailer for H 421, which has passed the House and at this time is in the Senate. It is an act that would allow a governmental entity such as a city, county, state agency, or taxing district, that is sued by another governmental entity to recover costs and attorney fees. Under current statute, an award of costs and attorney fees is not permitted in these cases, but is only allowed in lawsuits between a governmental entity and an individual, partnership, corporation, or association, when the nonprevailing party has pursued or defended the case without a basis in fact or law. Representative Clark hopes that this change could create a disincentive for lawsuits between governmental entities.

Representative Clark asked to **amend H 535** and has amendments prepared. The amendment states:

“On page 1 of the printed bill, in line 10, delete “or civil” and insert: “proceeding or civil”; and also in line 10, delete “state agency” and insert: “state agency”; in line 11, delete “governmental entity,” and insert: “a public health district established pursuant to Sections 39-408 and 39-409, Idaho Code, or a political subdivision”; in line 12, delete “or another governmental entity” and insert: “the state agency, public health district, political subdivision, or”; and also in line 12, following “court” insert: “, as the case may be,”; in line 13, following “and” insert: “other”; and also in line 13, delete “the” and insert: “the”; in line 14, delete “court” and insert: “court it”; also in line 14, following “that the” insert: “nonprevailing”; and also in line 14, delete “against whom judgment is rendered”; and insert: “against whom the judgment is rendered”; in line 15, following “law” insert: “, provided however, that this section shall not apply to allow an award of attorney’s fees against a defendant in a regulatory enforcement action affecting a professional license or otherwise

seeking civil fines or penalties". Also on page 1, delete lines 34 through 36, and insert:

"(4) For the purpose of this section: In any civil judicial proceeding involving as adverse parties a governmental entity and another governmental entity, the court shall award the prevailing party reasonable attorney's fees, witness fees and other reasonable expenses. For purposes of this subsection (4), the term "governmental entity" means any state agency, city, county or other taxing district.

(5) For the purposes of this section:" and in line 37, delete "(b)" and insert: "(a)"; in line 39, delete "(bc)" and insert: "(b)"; and in line 41, delete "(5)" and insert "(56)".

Correction to Title

On page 1, in line 4, following "AWARDED" insert: "AND TO REVISE DEFINITIONS".

In response to questions, Representative Clark yielded to **Representative Burgoyne**, who stated that additional amendments could be made when the bill goes to General Orders.

MOTION: **Representative Henderson** moved to **send H 535 to General Orders** with amendments attached. **Chairman Barrett** seconded the motion. **Motion carried on a voice vote. Representative Clark** will carry the bill to the floor.

H 514: **Tony Poinelli**, Deputy Director of the Idaho Association of Counties, presented **H 514**. This would remove county clerks from the requirement that they supervise the destruction of county records. It does not change the current process for counties' record destruction. It only changes the person who is responsible to follow that process.

MOTION: **Representative Boe** moved to send **H 514** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Boe** will carry the bill to the floor.

H 515: **Major Ben Wolfinger**, of the Kootenai County Sheriff Department, presented **H 515**. Under current statute, if a citizen owes delinquent personal property taxes, a Warrant of Dstraint must be issued and the Sheriff must execute the warrant. The cost of this process often exceeds the amount to be collected. This bill would eliminate the requirement for the issuance of the warrant and would also allow certain delinquent accounts to be pursued through a private collection agency, in order to help recover the delinquent taxes without unnecessary expenses.

In response to questions, Mr. Wolfinger stated that using a collection agency could cause delinquent taxes to be reflected on citizens' credit reports. Collection agencies are paid by volume. If a collection agency is not successful in collecting unpaid taxes, there are other processes in place including writing off those unpaid amounts. If the collection agency does not recover any monies, it does not receive any payment.

MOTION: **Representative Higgins** moved to send **H 515** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Higgins**

will carry the bill to the floor.

H 516: **Donna Peterson**, Payette County Treasurer, representing the Idaho Association of County Treasurers, presented **H 516**, which would allow the Board of County Commissioners to determine the cost of issuing Warrants of Distrain and to establish fees that reflect actual cost for each county.

MOTION: **Representative Clark** moved to send **H 516** to the floor with a **DO PASS** recommendation. **Motion carried on a voice vote. Representative Clark** will carry the bill to the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 1:55 p.m.

Representative Lenore Barrett
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

- DATE:** March 4, 2010
- TIME:** Upon Adjournment of the House
- PLACE:** Room EW05
- MEMBERS:** Chairman Barrett, Vice Chairman Bilbao, Representatives Collins, Clark, Bayer, Chadderdon, Henderson, Labrador, Boe, Burgoyne, Higgins
- ABSENT/
EXCUSED:** Representatives Clark and Henderson
- GUESTS:** Representative Moyle; Ken Harward, Idaho Association of Cities; Scott Turlington, Avimor, LLC; Danny Friend, Eagle Fire District; Kevin Courtney, Star Fire District; Jeremy Pisca
- The meeting was called to order at 2:57 p.m. by Chairman Barrett.
- MOTION:** **Vice Chairman Bilbao** moved to **approve the minutes of February 18, 2010** as written. **Motion carried on a voice vote.**
- H 607:** **Representative Moyle** presented **H 607**. It would provide a process for initiating proceedings for annexation of territory into a fire district from an adjoining county. In this proposed legislation, if certain conditions are met, an election on the question of annexation would not be not required.
- Scott Turlington**, representing Avimor, spoke **in favor of H 607**. He encountered a situation in which a landowner who wished to be annexed into a fire district was unable to be annexed because there was not someone living on the property. Working with the Eagle and Star Fire Departments, he found that the issue could be resolved through this proposed legislation.
- In response to questions, Mr. Turlington stated that the Avimor development touches three counties including Gem County.
- Ken Harwood**, of the Idaho Association of Cities, stated that he **supports** the proposed legislation.
- Danny Friend**, of the Eagle Fire Department, spoke **in favor of H 607**. He stated that this does not affect counties receiving their taxes, but would only clarify which fire departments would respond to emergencies.
- In response to questions, Mr. Friend stated that the Avimor development would receive assistance from Ada County, through the Eagle corridor of Hwy 55.
- MOTION:** **Representative Bayer** moved to send **H 607** to the floor with a **DO PASS** recommendation. **Representative Burgoyne** disclosed that he has had an attorney client relationship with the Eagle Fire Department, and **Representative Labrador** disclosed that some of the parties involved coach his son's football team. Both Representatives will vote on the motion. **Motion**

carried on a voice vote. **Representative Moyle** will carry the bill on the floor.

H 608: **Representative Moyle** presented **H 608**, legislation that would remove the six month limitation from the zoning commission so that they can act upon a request for a change to the comprehensive plan at any time. The current limitation can cause a delay of up to a year when a change is requested, due to construction being halted during the cold months.

He proposed amending H 608 as follows:

“On page 2 of the printed bill, in line 8, delete “.” and insert: “-”; in line 11, following “every” insert: “, unless the governing board has established by resolution a minimum interval between consideration of requests to amend, which interval shall not exceed”; also in line 11, delete “six (6) months.” and insert: “six (6) months.”; also in line 11, delete “or”; and in line 12, delete “modifications”.

CORRECTION TO TITLE

On page 1, in line 3, delete “OR”; and in line 4, delete “MODIFICATION”.

In response to questions, **Representative Moyle** stated that governing entities could move projects forward at a pace that is faster than six months.

Ken Harwood, representing the Idaho Association of Cities, spoke **in favor of sending H 608 to General Orders** with the amendment. Current law states that comprehensive plan texts may be amended at any time, but maps may only be amended every six months.

Representative Boe stated that she served as a city council member, and remembers that changes to comprehensive plans generally involved citizen input and took time. If cities have the authority to make changes more quickly, the citizens might not have opportunities to participate effectively.

In response to questions, **Mr. Harwood** stated that in speaking with cities, he has found that comprehensive plans and maps are not frequently changed. This bill is meant only to allow flexibility, and cities are supportive of the change. Cities are afforded any minimum time interval they would like, however, the proposed language would allow a maximum of six months. Local governments would be able to establish their own minimums by resolution.

MOTION: **Representative Bayer** moved to **send H 608 to General Orders with the amendment attached**. Speaking to his motion, he stated that he appreciates the language in the bill as well as the time frames expressed therein.

Representative Higgins disclosed that she sits on a planning board and deals with issues that could be affected by this legislation, however, she will be voting on H 608. **Chairman Schaefer** seconded the motion. **Motion carried on a voice vote. Representative Boe** is recorded as voting **NAY. Representative Moyle** will carry the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting

was adjourned at 3:26 p.m.

Representative Lenore Barrett
Chairman

Mary Tipps
Secretary

MINUTES

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: March 24, 2010

TIME: 1:30 p.m.

PLACE: Room EW05

MEMBERS: Chairman Barrett, Vice Chairman Bilbao, Representatives Collins, Clark, Bayer, Chadderdon, Henderson, Labrador, Boe, Burgoyne, Higgins

**ABSENT/
EXCUSED:** Reps. Clark, Bayer, Chadderdon, Labrador, Boe

GUESTS: None

Meeting was called to order at 3:00 p.m. by Chairman Barrett.

MOTION: Rep. Bilbao moved to approve the minutes of March 4 as written; motion carried on voice vote.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:03 p.m.

Representative Lenore Barrett
Chairman

MaryLou Molitor
Secretary