

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

- DATE:** Thursday, February 14, 2013
- TIME:** 9:00 A.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman Collins, Vice Chairman Wood(35), Representatives Barrett, Moyle, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Patterson, Trujillo, Burgoyne, Erpelding, Meline
- ABSENT/
EXCUSED:** None.
- GUESTS:** Carl Olsson; Mike Chakarun, Idaho State Tax Commission; Jeanne Fitzgerald, Assistance League; Brad Wills, BuildIdaho.org; Melissa Nelson, ISCPA; Benjamin Davenport, Associated Taxpayers of Idaho; Bob McQuade, Ada County Assessor; Rick Yzaguirre, Ada County Commissioner; Larry Maneely, Ada County Commission Chief of Staff; N.L. Clayville, Derek Santos, DFM.
- Chairman Collins** called the meeting to order at 9:00 a.m.
- MOTION:** **Rep. Kauffman** made a motion to approve the minutes of February 12, 2013.
Motion carried by voice vote.
- H 95:** **Seth Grigg**, Policy Analyst, Idaho Association of Counties presented **H 95**. This bill would amend sections of Idaho Code by removing the 2012 provisions of **H 356** and changing the appeal process regarding property tax exemptions. The Board of County Commissioner's (BOCC) would approve or deny the request for tax exemptions and appeals would be made to the Board of Tax Appeals (BTA). Mr. Grigg stated the deadline in most counties for exemption applications is typically April 15th. The Board of Equalization (BOE) is required to meet monthly between January and June of each year. The BOCC meets on a different schedule and it varies from county to county. Mr. Grigg clarified that what is being proposed is related to a tax exemption for an individual. Property assessment is a separate issue and would not be impacted by this legislation.
- MOTION:** **Rep. Wood(35)** made a motion to send **H 95** to the floor with a **DO PASS** recommendation.
- Carl Olsson**, who is recently retired from the Idaho Attorney General's office, and who was assigned to the Idaho State Tax Commission, **spoke in opposition to H 95**. Mr. Olsson drafted **H 356** and while he did realize there was some duplication in the exemption appeal process, the intent was to be taxpayer friendly. When an initial appeal for exemption is made, the reason for denial might be simply due to a deficiency in the application. The taxpayer can correct the deficiency, so it's likely you would only see duplication the first year of application. The current language in **H 356** makes the process as easy as possible for the taxpayer.
- Mr. Olsson** stated if there is going to be a problem with duplication, it will likely be in Ada County, due to the logical and professional way in which they handle appeals. He stated there are 43 other counties that would be better off with the existing language. Mr. Olsson urged the committee to give the existing law a chance for a year or two. If the result is a lot of duplication, it can always be changed later.

In response to a question, **Mr. Olsson** stated the chief motivation behind the initial legislation was because many sections of Idaho Code did not provide guidance on how exemptions are processed. It was felt that it would be advantageous to list all of the possible exemptions available, how to apply for them and outline the process. Mr. Olsson responded to a question, saying he suspects when the BOCC acts in the capacity of BOE, the percentage of times they overturn their own decision would be low. The purpose of the language was to allow a taxpayer to change the deficiency in their application. If this law is changed, it would deprive the taxpayer the opportunity and the right to correct a deficiency and come back to the same board. Mr. Olsson also stated that there will likely be some limited negative impact to the state, but he can't say how much. Most appeals would go to the BTA who is set up to handle such cases on a regular basis. The primary reason for the original bill was to get a codification of which of the many exemptions require an application, where it must originate, and the process it must follow.

Brad Wills, BuildIdaho.org, stated that in his experience, the most effective appeal process is at the local level. If there is an issue, typically the county assessor will contact the individual and correct the problem so that it never gets to the appeal process. He also supports giving the existing law two or three years in practice before seeking a change.

Mr. Grigg based on past practices he has seen, believes that County Commissioners and County Assessors will work with an application that has a deficiency, before the BOCC formally hears the appeal. This legislation is supported by all 44 counties. In response to a question, Mr. Grigg stated that the counties have operated for decades under the old law and it worked fine. The Idaho Association of Counties was not consulted in the creation of the 2012 legislation. Mr. Grigg reiterated the process is essentially doubling by requiring the BOCC to render decisions and BOE, the same individuals in a different capacity, being required to hear appeals on their own decisions.

SUBSTITUTE MOTION:

Rep. Burgoyne made a motion to **Hold H 95** in committee.

Rep. Wood(35) spoke in opposition to the substitute motion by reiterating that if 44 counties feel that the legislation was not beneficial, she is ready to support their opinion. **Rep. Dayley** stated that he has had personal experience where the existing law would have helped him and supports the substitute motion. In response to a question, **Mr. Olsson** stated that under the current law, an appeal of a decision by the BOCC, could not skip the BOE step in the process and go directly to the BTA or District Court. **Rep. Anderst** will support the substitute motion because he hasn't been answered on how effective the appeal process is.

VOTE ON THE SUBSTITUTE MOTION:

Rep. Barrett requested a roll call vote on **H 95. Motion carried by a vote of 10 AYE, 6 NAY, 0 Absence/Excused. Voting in favor of the motion: Reps. Barrett, Moyle, Raybould, Denney, Anderst, Dayley, Hartgen, Kauffman, Patterson, Burgoyne. Voting in opposition to the motion: Reps. Wood(35), Anderson (31), Trujillo, Erpelding, Meline, Collins.**

H 106:

Jeanne Fitzgerald, President, Assistance League of Boise, presented **H 106** which would provide an Idaho State Income Tax Credit for cash contributions made to the Assistance League of Boise. Ms. Fitzgerald spoke on the various programs and services that the Assistance League provides, that are not being provided by any other organization. This tax credit is similar to what other charitable organizations are receiving. In response to a question, Ms. Fitzgerald stated that the school districts being served tend to have a high refugee and homeless base and the children are just not prepared to start school with adequate supplies.

MOTION: **Rep. Kauffman.** made a motion to send **H 106** to the floor with a **DO PASS** recommendation.

Rep. Anderson(31) stated that whenever we give these tax credits, we are essentially giving away taxpayer funds. He does not believe this is good policy. **Rep. Burgoyne** is uncomfortable with the provision of the code because it lists particular organizations rather than describe the types of contributions that would be eligible for the credit. Many of these organizations are providing services that would otherwise fall to the state. At some point he feels the tax credit should be described as to what types of organizations providing specific services is a preferred policy.

VOTE ON THE MOTION: **Motion carried by voice vote. Reps. Hartgen, Anderst, Anderson(31)** requested to be recorded as voting **NAY. Rep. Raybould** will sponsor the bill on the floor.

RS 21873C1: **Ken McClure**, Idaho Society of CPA's, presented **RS 21873C1** which would simplify the treatment of Net Operation Losses (NOLs) by allowing an election to carry forward an NOL for Idaho income tax purposes. The default rule for both federal and state losses is to carry back the allowed losses to prior tax years unless an election is affirmatively made. This legislation would not provide a new deduction but simplify the process by removing the additional election requirement.

MOTION: **Rep. Trujillo** made a motion to introduce **RS 21873C1. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:12 a.m.

Representative Collins
Chair

Kathleen A. Simko
Secretary