

**MINUTES**  
**Approved by the Committee**  
**Urban Renewal Interim Committee**  
**Thursday, January 14, 2016**  
**4:45 P.M.**  
**E403**  
**Boise, Idaho**

The meeting was called to order by Co-chair Representative Rick Youngblood at 4:45 p.m. Members present were: Co-chair Senator Dan Johnson, Senators Jeff Siddoway, Chuck Winder, Mary Souza, and Maryanne Jordan; Representatives Robert Anderst, Kathleen Sims, Lance Clow, and Hy Kloc. Staff present were Keith Bybee, Mike Nugent, and Ana Lara from the Legislative Services Office.

Others in attendance included: Russell Westerberg and Todd Bunderson, Capital City Development Corporation; Ryan Armbruster and Meghan Conrad, Elam and Burke; Teresa Molitor, Ignite CDA/Jerome URA; Larry Maneely, Ada County Board of County Commissioners; Anton Squyres and Scott Turlington, Meridian Development Corp.; Tyler Mallard, Risch Pisca; Jonathan Parker, Holland and Hart; Alan Dornfest, Idaho State Tax Commission; Ken Burgess and John Watts, Veritas Advisors; Caroline Merritt, Boise Metro Chamber of Commerce; Amber Pence, City of Boise; Jason Kreicenbeck, Lobby Idaho, LLC; Amber Pence, City of Boise; Bill Spence, Lewiston Tribune; Neil Colwell, Avista Corporation; and Joan Johnston.

Note: Copies of presentations, handouts, and reference materials can be found at: [www.legislature.idaho.gov](http://www.legislature.idaho.gov) and are also on file at the Legislative Services Office.

Representative Clow moved that the minutes from December 14, 2015, be approved and Representative Anderst seconded his motion. The motion passed by voice vote with Senator Siddoway and Senator Souza abstaining as they arrived after the motion was passed.

Co-chair Youngblood began the discussion regarding current draft and asked for LSO staff member Mr. Mike Nugent to discuss the revisions listed on a separate handout. Co-chair Youngblood stated that the draft included the majority of the items that were discussed over the previous 5 months. Senator Souza asked for confirmation that the draft that was printed and provided to the committee is the same draft that Legislative Service Office staff member Keith Bybee sent out previously to the committee. Representative Youngblood and Mr. Mike Nugent confirmed that it was. Co-chair asked the committee if they could begin discussing the draft, but wanted to discuss briefly page 2 line 22 which he stated emphasizes the goals of urban renewal:

- Creating community goods;
- Cleaning up our communities;
- Increasing revenues; and
- Increasing wages and employment.

Co-chair Youngblood directed the committee to look at page 3 where the first discussion item was located which detailed the set up for members of the board (urban renewal board). He said that the current statute states it should be a board of 3 to 9 people, but the statute is pretty general after that. He discussed a letter that was submitted to the committee from Mr. Nick Miller who is general counsel for bonding. He discussed whether allowing all city council members to also be the governing body of the urban renewal agencies would call into question the "alter-ego" issue discussed in the letter. He also inquired if doing so would jeopardize its "independent corporate body" or cause them to lose bonding which could be a possibility. He recommended that the committee consider allowing a number of 3 to 9 members for urban renewal agency boards, and that city council members not constitute a majority of the urban renewal board. Representative Clow inquired if Mr. Miller's letter recommended to not have the "alter-ego" city council majority on

an urban renewal board since it may conflict with current law. Co-chair Youngblood responded that it was his understanding that the letter refers to the possibility that this could jeopardize the urban renewal's ability for bonding and its status as an independent corporate entity.

Representative Anderst stated that after having read this letter he believes it's well within reason to insert specific language within the bill which gives guidance for bond protection such as not having a city council majority on an urban renewal board for example. He said that the verbiage in the bill could simply state that no urban renewal board can have a majority of board members that are also city council members, regardless of however many that is.

Senator Souza stated that a year ago when she was investigating the election of the urban renewal board, she asked Brian Kane from the Attorney General's Office if it was constitutional or if it would create a problem with bonding if an urban renewal board was made up entirely of city council members. She stated that the Assistant Chief Deputy Brian Kane said that it would not create a problem, and upon reviewing the letter from Mr. Miller, Mr. Kane told her that he would call and discuss this with Mr. Miller because he does not believe it would be a problem. Senator Souza said while she was not trying to defend the idea of having an all city council urban renewal board, she does believe there could be different opinions regarding whether it would create a problem with bonding or not.

Senator Winder stated that he does not see an issue with having some city council members on the urban renewal boards, as long as they do not constitute a majority of the urban renewal board. He opined that the committee should err on the side of the bond council.

Senator Jordan asked if the committee would be willing to include language in the draft that would exempt those existing councils that currently have a majority of city council members on their urban renewal boards and only effect the urban renewal board membership make up going forward. She agreed that there should not be a city council majority on urban renewal boards, but there might be considerable problems if the makeup was changed so drastically for those existing boards.

Representative Clow asked the committee to consider mayors as part of the city council membership when it comes to calculating whether an urban renewal board is made up of a majority of city council members or not. Representative Anderst said he would not like to give a municipality approval to continue with a majority city council membership on their urban renewal boards and then have them be adversely affected because of a bonding issue; the committee should address the bonding issue now. Senator Winder opined that the committee could possibly offer a 12 month extension for urban renewal boards to adjust their membership so that it does not contain a majority of city council members. Co-chair Johnson stated that in the current statute it states that even if the board goes away the bond is still valid.

Senator Winder moved that in the make up of a board of any urban renewal district, that it be made up by appointment of the local jurisdiction, but in no case would the body of jurisdiction, most likely the city council, would there by a majority of city council members on the board including the mayor. Co-chair Johnson suggested that the draft should state "local governing body" rather than "city council" because it is defined in our current statutes to include counties. Senator Winder agreed with wording presented by Co-chair Johnson. Representative Clow stated that staff has been listening to the conversation and he is confident that staff will note the intent in the motion and writing the draft. Senator Siddoway questioned whether a city council that allows for the election of those board members fits within the motion. Co-chair Youngblood responded that the committee would also address the issue with elected board members. Senator Siddoway stated that these elected positions become somewhat their own independent body politics, and regardless of how many city council members were elected to the urban renewal board, they may not be subject to the city council majority as they were elected to the board. Representative Anderst stated that if a city determines it wants all their board members to be elected, it's his opinion that it protects the issue of putting them in a position of possibly losing bonding authority. Senator Winder stated

that at this point his understanding was that the committee was addressing appointments; the committee could change the language to address the elected boards. He suggested that staff ask the question, or he could ask the bond council if this provides enough separation. The motion was passed unanimously by voice vote.

Senator Winder moved that the committee allow a time period of no more than 12 months to allow the existing urban renewal boards that are made of a majority or entirely of a city council to make adjustment to the format that is going to be carried out in this legislation. Representative Clow seconded the motion. Senator Jordan stated that if the city has opted for elections, they may need more than 12 months to comply with this. Senator Souza suggested that the committee extend a deadline of the November election following the first 12 months in an effort to organize an election. Representative Clow stated that when the committee gets to the section regarding elections, this would be an option for city council as they have complete control; they could take 2 years for example if needed to deal with this issue. He emphasized that this motion and the last motion were directed specific to appointed boards. The motion passed by voice vote with Senator Jordan and Representative Kloc dissenting.

Co-chair Youngblood introduced the next item - the election of board members. Senator Souza requested that under the election section that the words. Senator Jordan inquired about the language on page 3 line 44 with comparison to page 4 line 1 where the draft is describing two different entities as local governing bodies. Co-chair Johnson agreed with Senator Jordan; it should be vested in the newly elected body, not the local governing body. Senator Jordan stated that there would need to be 2 separate requirements for potentially 2 different election cycles for city and county elections. Senator Souza moved to accept the language in Section 50-2005, Idaho Code, having to do with the option to elect urban renewal board members. Representative Sims seconded the motion. The motion passed with voice vote unanimously. Representative Clow inquired what steps should be taken for vacancies in elected boards. Senator Jordan opined that she does not believe a mayor can appoint to an independently elected board. Senator Siddoway opined that the city council and the mayor would be the appropriate avenue to take; if the local governing body is a county, then a county commissioner would be appropriate.

Co-chair Youngblood introduced Mr. Alan Dornfest with the Idaho State Tax Commission to address the committee. Mr. Dornfest said his comments are mostly on page 22 of the draft. He stated that his concerns are regarding checking the plans for completeness and making sure updates are sent to the Tax Commission as they do not have the resources, knowledge, or expertise to accomplish this. The only plans that the Tax Commission currently receives is when there is a boundary change. Another concern he stated had to do with the language in 3c on page 23, specifically with the urban renewal agency compliance and the word "financing." Mr. Dornfest made some suggestions in his letter regarding language in terms of the budgeted amount if an urban renewal agency fails to comply. Senator Winder agreed with Mr. Dornfest's comments and recommended that staff make the necessary adjustments in the draft. Senator Winder asked what happens at the end of a plan and if the base gets reset. Mr. Dornfest stated that the issue with resetting the base is that he doesn't view resetting the base upon plan modification as equivalent to terminating the revenue allocation area. He said that the law on new construction states that the only time you can get new construction value for your budget if it's within the revenue allocation area is upon base termination, not upon base reset. Mr. Dornfest explained that what is in this draft is that the base value would get reset to dump in all the increments, not just at termination but also on modification, which would negate the ability to ever translate that into new construction because that law only states upon termination; language could be added to Section 63-301a, Idaho Code, to address this though. He stated that if the committee does not want the underlying tax districts to lose capacity, then a special circumstance would need to be made so that this additional value is captured only once, but it would mean that modification would need to be made to 63-301a, Idaho Code. Co-chair Johnson stated that Co-chair Youngblood, Representative Anderst, and he had met with the Tax

Commission to determine the mathematics in regards to resetting the base. He suggested that the Tax Commission may be able to do in a similar way that they do other levy certifications and ensure that the urban renewal agency still make their bond payments. Mr. Dornfest commented that perhaps adding a separate clause that would ensure that the district certifies the amount necessary to make its bond payment and then anything in excess of that would return to the taxing districts.

Representative Sims asked what it would take for the Tax Commission to handle the plans to make sure they are filed and when they are modified. Mr. Dornfest does not have that answer at this time and it would need to be addressed at a higher level to determine what resources would be needed. He said that if the committee would like to know what administrative or software expenses would be needed to please inform him so the department may look into the matter. Representative Anderst asked if it's the Tax Commission's position today that when a plan is modified that the base reset or that the base does not reset? Mr. Dornfest responded that in discussing this with their legal staff, the only modification to a plan that they have ever been aware of has been one that results in a boundary change which they wrote a specific rule to address this that states that they would not consider this to be a modification that would reset the base. Senator Siddoway asked if there was an amendment or modification that triggers resetting the base, if there had been an increment, would that increment go back to the city or the county and allow for lowering the levy at that time. Mr. Dornfest stated that 2 things would happen: the value would go back to the taxing district and they would have increased budget capacity if the underlying taxing district chose to take all of its budget capacity; if they did not then it would have the effect Senator Siddoway stated.

Representative Anderst moved that in a circumstance where a local governing body has opted for a local election of urban renewal board members that a replacement member of that board shall be appointed by the local governing body [or sponsoring governing body to make distinction between urban renewal boards and councils or commissioners] until the next election. Representative Clow seconded the motion. The motion passed by voice vote unanimously. Representative Clow stated that existing law states that the mayor with the advice and consent of the local governing body and asked how would this handle the appointment of urban renewal boards that are established by a county as the local governing body. He suggested that the language be removed where it states "and/or the local board..." Co-chair Youngblood asked Mr. Nugent if this modification could be made. Mr. Nugent stated that it could be made, but some amendments may need to be made to the existing statutes. Co-chair Youngblood asked if the committee was in agreement and they stated they were.

Co-chair Youngblood introduced the next topic of whether urban renewal board members should be within the county or the city. The committee gave their consent to define it to county. Representative Clow asked how much can a plan be modified before there is a requirement to have a new ordinance. Representative Youngblood responded that in his discussion with Mr. Nugent the current statute states that when a city has an ordinance to the change. Co-chair Johnson suggested that a definition for modification could be if you changed the boundaries, the area of the revenue allocation, by a certain amount or a certain percentage then that would be a modification that would result in a reset of the base; alternately looking at their budgets, or the amount of money they are spending, that if they increase over a certain amount or if they change their pattern, or they are spending because there are new projects then it would result in a modification. Co-chair Youngblood concurred with Co-chair Johnson as this was an area that was discovered in committee meetings and will require outside expertise to discuss this further. Representative Anderst stated that he does not believe the committee wants to do anything that will damage the ability of the existing urban renewal agencies' ability to pay the debts incurred up to that point. He suggested that municipalities may benefit by considering that instead of continually modifying plans, starting a new plan; over time this may provide more specificity in each plan which creates transparency for the tax payers. Co-chair Youngblood asked the committee if they were in agreement to accept the language

regarding the definitions knowing that the committee needs to work with the Tax Commission on the language for the definition of "base assessment." The committee agree with unanimous consent.

Senator Souza asked if the committee would consider defining a necessity by a local governing body for how it decides if it would want an urban renewal agency. She clarified that this would give local control to what categories of themes are acceptable for tax increment planning within that municipality. Co-chair Youngblood and Representative Anderst responded that it was their understanding that the municipalities already have this ability. Representative Anderst stated his concern regarding a local governing body instructing the "alter-ego" what it can or cannot do. Senator Winder asked Mr. Armbruster for his opinion regarding Senator Souza's proposal. Mr. Armbruster stated that the local governing body already dictates what can or cannot be done by virtue of passage of the plan, and this language would jeopardize the agency from implementing the plan unless the local governing body and the board wanted to propose an amendment. Senator Winder suggested that the committee ask staff to address this and return with a recommendation now that the committee has heard the opinion of Mr. Armbruster.

Co-chair Youngblood introduced the next topic regarding community development. Senator Winder asked if the definition for community could be clarified for more specificity. Co-chair Youngblood asked the committee if they are in favor of the voting piece and what number each member has in mind:

- Representative Clow: 50;
- Representative Kloc: 50 plus 1;
- Senator Souza: at least 55;
- Representative Anderst: probably 55;
- Representative Sims: 55;
- Senator Siddoway: supermajority; and
- Senator Winder: 55 or 50 plus 1.

Co-chair Youngblood stated that with the committee's permission, he will speak with Mr. Nugent regarding the changes that were discussed this evening. He said that a new draft will be forwarded and to feel free to speak with him and the Co-chair with any questions. He stated that the committee will move forward with recommendations to leadership. Mr. Nugent offered to send a draft with the definitional changes instead of the entire document at the request of the committee. At the request of the committee, there will be another meeting scheduled at a later date. The meeting adjourned at 7:12 p.m.