

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 28, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators Rice, Bayer, Guthrie, Werk, Burgoyne, and Vick

ABSENT/ EXCUSED: Senator McKenzie

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

MINUTES: **Chairman Siddoway** called for the approval of the Minutes from January 15, 2015, and January 20, 2015.

MOTION: **Senator Guthrie** moved to approve the Minutes of January 15, 2015. **Senator Bayer** second the motion. The motion carried by **voice vote**.

MOTION: **Senator Johnson** moved to approve the Minutes of January 20, 2015. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Johnson.

Vice Chairman Johnson introduced McLean Russell, Tax Policy Specialist with the Idaho State Tax Commission (Commission).

DOCKET NO 35-0102-1404: **Mr. Russell** presented Rule 010, the definition for contractor improving real property, which is being amended to update obsolete terms by using the term speculative builder in place of speculation contractor and spec contractor.

Mr. Russell presented Rule 105, time and imposition of tax, returns, payments, and partial payments. The rule is being updated to clarify that a single payment may be made to cover liabilities from multiple tax types.

Mr. Russell presented Rule 107, vehicles and vessels. This rule is being updated to reflect legislative changes related to the use tax exemption for new residents and military personnel and ensure that the rule aligns more closely with the statutory exemption.

Senator Rice asked about form requirements for military personnel and other residents as far as uniformity in registering their vehicle. The concern was making sure there wasn't a standard more rigorous for military personnel than for other people. **Mr. Russell** responded by saying there is no difference in the forms required by military personnel to register their vehicles, and acknowledged the difference in language Senator Rice highlighted. He stated the Commission will look at it for uniformity and a possible change in the future if it needs to be updated.

Senator Burgoyne inquired about 05a within Rule 107 and how the second sentence operates differently than the first. **Mr. Russell** responded by explaining that the first sentence reflected only statutory language whereas the second sentence spoke specifically about showing proof of registration and title that meets the time periods of the statute.

Senator Rice stated his understanding about language interpretation within Rule 107 regarding the time frame from which the purchase was made to the registration of the vehicle, and also the requirement to provide proof of registration only, not needing other proof such as proof of purchase. **Mr. Russell** confirmed his understanding to be correct.

MOTION: **Senator Werk** moved to approve **Docket No. 35-0102-1404**. **Senator Siddoway** second the motion. The motion carried by **voice vote**.

Vice Chairman Johnson thanked Mr. Russell and introduced Alan Dornfest, Property Tax Bureau Chief with the Idaho State Tax Commission.

Vice Chairman Johnson invited Alan Dornfest to the podium and asked him to introduce himself.

DOCKET NO 35-0103-1401: **Mr. Dornfest** presented Rule 120. This rule is being amended to define the subject matter of complaints and to provide a timeline for hearing the complaints. The words public official will be changed to county official, and the subject matter of any complaint investigated is limited to property tax assessment and levy limit types of questions.

Senator Werk commented on a typo on page 56.

Senator Rice asked how this rule is limited to the kinds of things the Tax Commission is assigned. **Mr. Dornfest** reported that the Commission didn't try to exclude everything that was in their scope of investigation, but that it was a work in progress and may change to encompass more exclusions in the future.

Chairman Siddoway asked if this rule had any bearing on HB 560 brought last year that wanted accountability reporting to all the taxing districts within the jurisdiction of the state, counties, and cities. **Mr. Dornfest** stated that it did not.

Mr. Dornfest presented Rule 609 which is being amended to provide that the assessor may remove a property's homestead exemption if, by April 15 of the tax year, the taxpayer owns a different homestead and requests that the exemption be transferred to the second homestead.

Senator Vick clarified receiving the initial homeowners exemption only if it was applied for prior to April 15th. **Mr. Dornfest** confirmed.

Mr. Dornfest presented Rule 988. This rule related to the Qualified Investment Exemption (QIE), an exemption of personal property for two years in cases where the tax payer qualifies for the investment tax credit under income tax law, but has a loss in a particular year so he/she cannot use the investment tax credit. They could carry it over or at their option take a two year personal property exemption. This rule is being amended to delete the reference to an annual affidavit which has been deleted from Idaho Code § 63-602KK by last years HB 441a.

Chairman Siddoway made mention of Rule 120 and the possible correction of the typo. He asked for verification of what can and cannot be done in this circumstance of needing a grammatical error corrected. **Chairman Siddoway** requested Dennis Stevenson, State Administrative Rules Coordinator, come to the podium and clarify this issue. **Mr. Stevenson** confirmed he could make the correction.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 35-0103-1401**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

Senator Rice opposed the motion to change Rule 120, and stated his reason in doing so is for citizens to more clearly understand what kind of things they can actually complain to the Commission about. **Senator Rice** wants to be recorded as having voted against passing **Docket No. 35-0103-1401**.

**DOCKET NO
35-0103-1403:**

Mr. Dornfest presented Rule 126 which is being amended to show the changes to the method of gaining the number of courses required for appraisal certification. This is done by providing an opportunity to challenge one of the two required courses by passing a test.

Mr. Dornfest presented Rule 128, a companion to Rule 126. This property tax rule is being amended to show changes to the method of gaining the number of courses required for cadastral certification by providing an opportunity to challenge one of the two required courses by passing a test.

MOTION:

Senator Guthrie moved to approve **Docket No. 35-0103-1403**. **Chairman Siddoway** second the motion. The motion carried by **voice vote**.

**DOCKET NO
35-0103-1404:**

Mr. Dornfest presented Rule 205, which is being amended to allow the rule to conform to Idaho Code § 63-201(9) as amended by HB 441a, which recently became law. The rule deletes language that is inconsistent with current law regarding the three factor test which is used to determine if an item of property is a fixture and therefore real property.

Senator Burgoyne asked about a contradiction in the previous discussion in the House Committee about the definition of fixtures. He noted there is the three factor test and provisions in the rules that seemed to set a different standard for determining fixtures. He inquired if this has been resolved. **Mr. Dornfest** replied it was taken care of statutorily in HB 441 as amended.

Mr. Dornfest presented Rule 315. This rule deletes the specific statutory references to the various property tax exemptions and adds the words "property exempt from property tax". This rule makes use of a ratio study to equalize the Boise School District per Idaho Code § 63-315.

Mr. Dornfest presented Rule 508 and recommended deleting this rule as obsolete. There is no longer a need due to HB 315 and HB 383. This rule deletes personal property exempt value notification by taxing district or unity rule due to reporting changes. It also deletes the notice requirements made unnecessary by statutory changes.

Mr. Dornfest presented Rule 509, which is being amended to delete the requirement to report on abstract exempt personal property and certain exempt oil and gas well property. This rule had required the reporting of the personal property exemption amount. SB 1213 deleted the need to apply for the oil and gas well exemption.

Mr. Dornfest presented Rule 512. This rule deletes the word "fixtures" from the heading describing Category 59 property items. The category is used for personal property, and fixtures are statutorily defined as real property and should not be included under this category.

Mr. Dornfest presented Rule 626, which is being amended to clarify that personal property declarations need not be filed every fifth year, and replacement funds which have been established as of 2013 may need to be adjusted if errors are discovered. The administrative and replacement money information is to remain in Rule 626, while the taxpayer ownership examples contained in this rule will be transferred to proposed Rule 627.

Senator Rice questioned the old language versus the new language. Much discussion ensued regarding the replacement money paid to the county and the obligations by the county to recover monies from an improper claim made by a taxpayer. **Mr. Dornfest** reiterated the intent is how the language reads and attempted to clarify by citing an example.

Vice Chairman Johnson commented on the inconsistency of what seemed to be double underlines to reference italics. **Mr. Dornfest** indicated that the double underline is the additional change, and the italics are meant to be used as a differentiation of various edits already completed.

Mr. Dornfest presented Rule 627, which is the companion rule to Rule 626, and a new rule with no changes. This rule explains the terms of common enterprise and taxpayer relationships transferred from Rule 626.

Mr. Dornfest presented Rule 645, relating to land actively devoted to agriculture. This rule changes the existing language from "requires net income when selling livestock" to "requires gross income when selling livestock" to be consistent with statute.

Mr. Dornfest presented Rule 803, which is a budget certification rule that deals with the information that the Commission is required to receive each year from any taxing district that wants to have property tax and what exactly they need to submit. It is being amended to require the amount of personal property replacement funds received by the taxing districts to be subtracted before levies are computed. This conforms with HB 441a.

Chairman Siddoway asked about the 3 percent cap restriction; does a county have the option after three or four years to take a 10 percent increase at one time or would the cap restrict that? **Mr. Dornfest** replied by giving an example that showed counties were entitled to take the increase in one lump sum or a portion upon their discretion.

Mr. Dornfest presented Rule 805, which is amended to provide a procedure for disallowing certain budget increases in accordance with HB 560 when entities do not comply with reporting requirements.

MOTION: **Chairman Siddoway** moved to approve **Docket No. 35-0103-1404**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

DOCKET NO 35-0103-1405: **Mr. Dornfest** presented Rule 804T, which adds the State Authorized Plant Facility Fund to the list of those funds excluded from generating property tax to be allocated to urban renewal agencies. This administrative rule clarifies splits in parcels, and whether or not the personal property exemption comes off base value or increment value.

Mr. Dornfest presented Rule 995T, a sales tax distribution formula. The amendment requires the amount of the 2013 personal property tax exemption be included in the market value for assessment purposes for the computation of the amount of sales tax to be distributed to cities.

Senator Burgoyne asked if the cities had been consulted regarding this rule; had **Mr. Dornfest** heard from Boise and Garden City with feedback? **Mr. Dornfest** stated the Commission provided a great deal of information at several events and received no comments by either city.

MOTION: **Senator Guthrie** moved to approve **Docket No. 35-0103-1405**. **Senator Werk** second the motion. The motion carried by **voice vote**.

DOCKET NO 35-0103-1501: **Mr. Dornfest** presented Rule 006, a temporary rule. **Mr. Dornfest** apologized in advance to the Committee by reporting the notice of this rule not being published. He asked that this rule to be continued for calendar year 2015, so they can correct mistakes.

MOTION: **Chairman Siddoway** moved to approve **Docket No. 35-0103-1501**. **Senator Werk** second the motion. The motion carried by **voice vote**.
Vice Chairman Johnson reminded the Committee that there is still one docket that is being held, and it will be taken up at a further time this Session.

PASSED THE GAVEL: Vice Chairman Johnson returned the gavel to Chairman Siddoway.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:45 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary