

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Wednesday, February 04, 2015

**TIME:** 3:00 P.M.

**PLACE:** Room WW53

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

**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 21, 2015, January 22, 2015, and January 27, 2015.

**MOTION:** **Senator Vick** moved to approve the Minutes of January 22, 2015. **Senator Werk** second the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Werk** moved to approve the Minutes of January 27, 2015. **Senator Johnson** second the motion. The motion carried by **voice vote**.

**RS 23371** **Chairman Siddoway** invited Senator Guthrie to the podium to present **RS 23371**, relating to placing additional limitations on the use of eminent domain. The proposed legislation amends Idaho Code § 7-701A.

**Senator Werk** asked if this was the same bill that was evaluated last year. **Senator Guthrie** responded that this bill was looked at in 2013.

**MOTION:** **Senator Rice** moved to print **RS 23371**. **Senator Vick** second the motion. The motion carried by **voice vote**.

**RS 23406** **Chairman Siddoway** invited **Senator Johnson** to the podium to present **RS 23406**, relating to the Port of Lewiston's port request to change their reporting period to the State Auditor's office. Idaho Code § 70-1715 currently requires that the annual financial statement of the Port District shall be published in a newspaper printed within the district, and within 45 days of the end of the Port District fiscal year. Given today's reporting standards and requirements, an audited financial statement cannot be prepared or published within 45 days of the end of the Port's fiscal year (June 30th).

The Port is seeking to amend Idaho Code § 70-1715 to reflect the same reporting requirement as Idaho Code § 67-450B, Independent Financial Audit of Local Government Entities filing requirements. This is the filing requirement for Idaho cities, counties and districts.

The Port has reviewed the proposed amendment with the Executive Administrator of Idaho Public Utilities Commission, Nez Perce County Auditor, Nez Perce County Treasurer, and the Idaho Legislative Audits Division. None of these individuals or organizations expressed any concern with the proposed changes.

**MOTION:** **Senator Werk** moved to print **RS 23406**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

## H 27

**Alan Dornfest** presented **H 27**, relating to recreation districts and property tax. Current law permits recreation districts that form before June 1 of any year to levy property taxes that same year. They are the only type of taxing districts with this special provision. In all other cases, a district must be formed and have its boundaries clearly identified by January 1 to levy property tax that year. **H 27** takes away this special late formation levying provision and is needed for the following administrative reasons:

1. Recreation districts levy against all taxable property including operating property. This is apportioned to such districts on the basis of miles of lines or tracks within the districts. It is based on identification of the placement of such lines or tracks given maps prepared by the Tax Commission. Availability by that date gives companies time to determine and report mileage necessary to apportion operating property value to each taxing district. Receipt of new boundaries in late May precludes this from happening, except when the recreation district boundaries happen to coincide with those of an existing district. Failure to know how many miles of lines or tracks are within the new recreation district leads to erroneous levies which are likely to be too high on other taxpayers during the first year.
2. In addition, Idaho code § 63-802A requires that all taxing districts notify the county clerk by April 30th each year of the date and location of their budget hearing. With the proposed change in H 27, this would take effect in the following year, which would also be the first year of any levy.

There are 34 levying recreation districts. The Tax Commission was aware of at least one currently in the process of formation. The new law would take effect July 1, 2015. If a new district forms prior to June 1, 2015 it will be able to levy in 2015 based on current law. A district forming later in 2015 would not be able to levy this year regardless of the statutory change. Recreation districts have been authorized by law since 1970. The language permitting late formation was added in 1971. No recreation district currently levies for bonds.

**Mr. Dornfest** concluded by recommending a do pass.

## MOTION:

**Senator Werk** moved that **H 27** be moved to the floor with a **do pass** recommendation. **Senator Vick** second the motion. The motion carried by **voice vote**.

## H 28

**Mr. Dornfest** presented **H 28**, relating to levy and apportionment of taxes. School district tort funds are used to pay for liability insurance premiums. Property tax was levied to provide revenue for these funds. Growth in the funds is limited to 3 percent per year plus an allowance for new construction within the school district. The new construction based allowance requires the prior year's levy for this fund to be multiplied by new construction value. However, this levy has already been reduced by subtracting both agricultural equipment and personal property replacement money paid by the State to the district. This replacement money is calculated using all school levies. Most were much larger than the tort fund levy. The subtraction results in a very low or nonexistent tort fund levy. This negates the ability of the school district to use new construction in calculating its allowable tort fund maximum.

The issue is partly corrected in current law, which permits any agricultural equipment replacement money to be added back and a hypothetical levy to be used in calculating the next year's new construction related allowable budget increase for the tort fund. **H 28** allows any personal property replacement money to be added back and used for the same calculation. This maintains the principle of having the personal property exemption be neutral with respect to taxing district budgets.

**Mr. Dornfest** concluded by recommending a do pass.

**Senator Johnson** asked if by using the hypothetical levy on the spreadsheet, provided a correct assumption, if it was correct to say that the Ag only current law would be the same levy rate for school A and school B? **Mr. Dornfest** indicated that it would be the same levy amount. **Senator Burgoyne** asked what kind of comments were received from the districts about this. **Mr. Dornfest** indicated they have received support from the State Department of Education as well as all the school districts.

**MOTION:**

**Senator Johnson** moved that **H 28** be moved to the floor with a **do pass** recommendation. **Senator Werk** second the motion. The motion carried by **voice vote**.

**H 29**

**Mr. Dornfest** presented **H 29**, relating to technical corrections of personal property exemption. There were three primary areas that the Tax Commission was recommending change.

**Mr. Dornfest** reported the word taxpayer will be replaced with person. Legal advice suggested that person was a broader more inclusive term accounting for all types of legal entities and was therefore more appropriate and clearer.

Property owners with more than one property were limited to one \$100,000 exemption per county. Limitation takes affect when owners are in a common enterprise and have one of the listed relationships. This was not a new restriction but rather a clarification. New language deleted reference to that section which has caused confusion in interpretation among county assessors. The new language clarified the types of relationships that are intended. The Tax Commission does not anticipate any substantive differences but feels the changes would enable more consistent determinations of eligibility for the exemption.

Current law provides that money from recovered improperly claimed personal property exemptions be given to taxing districts. Returning the money to the taxing districts would be double dipping. The proposed change returns the money to the State and permanently reduces the shares to be paid by the State to affected taxing districts in future distributions. This would apply to recoveries related to 2013 exemption claims. If the improper exemption were for a more recent year, the money would be returned to the taxing districts. It would not be reflected in State replacement amounts.

The system of determining the amount of exemption to be allowed for operating property companies and public utilities does not match the valuation system in place for these companies. It does not match the way other exemptions are determined for these companies. Current law requires the personal property to be subtracted after apportionment, based on its existence in a particular county or area. The proposed change calculates the value of the exemption as the lesser of \$100,000 times the number of counties in Idaho in which the company is apportioned or the total amount of personal property reported and eligible. This simplifies the calculation and apportionment, enables apportionment to be accomplished without costly computer system revisions, and makes reporting simpler for taxpayers. In addition, it matches the way operating property is valued and the way other exemptions are subtracted from the taxable value of operating property companies. This change will increase the potential exemption applicable to operating property companies by an amount that could translate into about \$300,000 less tax for these companies. There would be no money lost by taxing districts, but the tax

reduction would end up being a tax shift to all other taxpayers. The tax increase on non-eligible properties would be about .19 per \$100,000 in taxable property. This calculation assumed an approximate tax rate of 1 percent.

**Mr. Dornfest** concluded by recommending a do pass.

**Senator Rice** asked if the change from using the Internal Revenue Code to using consanguinity within the second degree narrowed the definition. **Mr. Dornfest** replied by confirming that the second degree was being used, and the legal staff could reply as to whether or not this had been researched. **Senator Rice** voiced his concern for checking the code section for the revenue code rather than a handbook, and making sure that it's the one being used so the change that is proposed is one that is intended. **George Brown**, Deputy Attorney General, approached the podium to try and clarify terminology and said he would be able to report back to the Committee after further research on the manner.

**MOTION:** **Senator Rice** moved that **H 29** be held at the call of the chair. **Senator Burgoyne** second the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Bayer** moved to approve the Minutes of January 21, 2015. **Senator Rice** second the motion. The motion carried by **voice vote**.

**ADJOURNMENT:** There being no further business, **Chairman Siddoway** adjourned the meeting at 3:44 p.m.

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Senator Siddoway  
Chair

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Amanda McLennan  
Secretary