

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 17, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

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

ABSENT/ EXCUSED: All present, with a vacancy in District 17.

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 3:02 p.m.

S 1044 **Senator Guthrie** presented **S 1044**, relating to additional restrictions on the use of eminent domain and to make technical corrections. He reported that **S 1044** seeks to amend Idaho Code § 7-701A and proposes to add an additional exemption which would exclude takings for trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use, unless adjacent to a highway, road or street. **Senator Guthrie** gave some history and issues relating to eminent domain. **Senator Guthrie** contended that the state is the local jurisdiction and just as with the efforts of § 7-701A. He said the decision about when eminent domain is appropriate is a decision left to states. He cited examples of why the need for **S 1044** and stated it was not an anti-greenway issue, it was a private property issue.

Senator Burgoyne asked if the proposed amendment was to completely do away with eminent domain for the purpose of trails, etc. or only where the condemnation action will result in that land being conveyed to a private party. **Senator Guthrie** said his understanding was when these takings occur they are transferred to a private property. **Senator Burgoyne** inquired with respect to the act of condemnation and the ultimate conveyance to a private party, where do urban renewal districts fall in this legislation; are they regarded as private parties or are they regarded as governmental entities? **Senator Guthrie** responded you could have both.

TESTIMONY: Much discussion ensued regarding **S 1044** and speaking in opposition were:

Jay Gibens, City of Meridian Pathways Project Manager, said he would like to have eminent domain left in place when easements don't work to purchase land for city pathways.

David McGuire, Pocatello, stated that the city of Pocatello refused to use eminent domain and pursues voluntary agreements with property owners.

Cynthia Gibson, Idaho Walk Bike Alliance, said pedestrian and bike paths provide safe corridors allowing commuters access to work, providing people access to shopping and dining, and offering recreational activities.

Bill Gigray III, President of FACTS, commented Idahoans place a high level of trust in their elected officials to use condemnation authority sparingly and when no other alternatives exist.

Kent Goldthorp, Meridian City Parks and Recreation, stated that Meridian has rarely used eminent domain in bicycle and pedestrian paths. The Committee should trust the local elected officials to know the best interest of their communities.

Meghan Conrad, RAI attorney, stated a letter was sent to each Committee member, and she stands behind that letter (see attachment 1).

Geoff Schroeder, Elmore County Republican Party Chair and Mountain Home City Council, said greenways are transportation routes, and this bill is not necessary.

John Evans, Mayor of Garden City, said condemnation has rarely been used for pedestrian and bicycle facilities. A homeowner's association asked Garden City to use eminent domain to acquire property for a greenbelt bridge across the Boise River as an alternative to avoid restrictive covenants placed on the disposal of commonly owned property.

Brent Orton, Director of Public Works, City of Caldwell, reported the cost of condemnation was expensive.

Scot Oliver, Idaho Smart Growth, referred to the letter he sent to the Committee (see attachment 2).

Elaine Clegg, Boise City Council Member, stated that eminent domain was used early in the development of the Boise River Greenbelt and played a key role in bringing the greenbelt to fruition. Today, the Boise River Greenbelt is the gem of Boise's nationally recognized park and trail system, estimated to carry 65,000 trips per year.

Holly Cook, Caldwell Mayor's office, commented that communities throughout Idaho have created greenbelts. They are valuable amenities and economic development tools that attract new businesses, homeowners, and tourists to communities.

Seth Grigg, Association of Idaho Cities, stated that in the interest of time he turned in written testimony to the Committee (see attachment 3).

**UNANIMOUS
CONSENT
REQUEST:**

Senator McKenzie asked for unanimous consent to have **HCR 4** moved to a different agenda due to Representative Collins having a meeting to attend. There were no objections.

TESTIMONY:

Speaking in favor of **S 1044**:

- Russ Hendricks, Idaho Farm Bureau, said the Idaho Farm Bureau supports the bill. He stated the Idaho Constitution authorized the creation of counties and cities. It is for the State to determine how and when cities or counties may use eminent domain.
- Trent Clark, Monsanto Company and Secretary of American Property Rights Alliance, commented jogging paths and bike trails do not need to be in any particular location to be functional. To say they must run through a particular person's property is only a pretext to confiscate the property for the use of others. He also stated a purpose of the government is to protect rights.

Senator Guthrie concluded saying private property rights are something he cares about, and **S 1044** seeks to protect those rights guaranteed in the Idaho Constitution.

MOTION:

Senator Vick moved that **S 1044** be sent to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Burgoyne moved to send **S 1044** to the 14th Order, for amendment. **Senator McKenzie** seconded the motion. The motion failed.

VOICE VOTE:

The original motion carried by **voice vote**. **Senators Burgoyne, McKenzie, and Johnson** requested that they be recorded as voting nay.

PRESENTATION: **Chairman Siddoway** introduced Russell Westerberg, Owner at Westerberg & Associates, and Jeff Mihalic, President of Western Aircraft.

Mr. Mihalic introduced himself and gave a presentation about the current status of Western Aircraft. He reported the progress of Western Aircraft since the sales tax exemption, H 417, was passed in 2012. He spoke about tax impact, expansion, competition, projected job growth, repair stations, results, growth drivers, and Western's master plan.

Mr. Mihalic concluded by asking the tax exemption be reauthorized by the Idaho Legislature before its expiration on June 30, 2016.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 5:30 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary