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To: Members of the Senate Local Government & Taxation Committee
From: Seth Grigg, Executive Director
Date: February 24, 2015
Re: AIC Opposes Senate Bill 1093

The Association of Idaho Cities (AIC) appreciates the opportunity to share our concerns about Senate Bill 1093 and respectfully requests that you vote to hold the bill in committee. There are numerous technical issues with the bill that are outlined in the attached summary.

Since statehood, Idaho's policy has been to encourage urban growth within cities. This policy protects the viability of cities by ensuring continued future growth and development, and protects county taxpayers from the unnecessary burden of funding urban services. This policy has served the state well both from the perspective of promoting economic development, as well as efficient and effective delivery of urban services and infrastructure.

Senate Bill 1093 would frustrate cities' ability to grow in a planned, cost efficient manner, as cities would not be able to predict where voters would block future annexations. A patchwork of annexed lands on the periphery of cities would lead to much higher costs for extending infrastructure and providing services.

Businesses and developers rely on access to city water, sewer, streets, law enforcement, fire protection, and other services and infrastructure. By placing the fate of private investment in the hands of a few voters (who might not even be property owners), Senate Bill 1093 will frustrate the efforts of state and local officials who are working hard to attract new businesses and jobs to Idaho.

Currently, Idaho law treats cities of all sizes the same with respect to annexation. Senate Bill 1093 makes a critical policy distinction based on an arbitrary population threshold of 8,000, but there is no rational basis for doing so. It doesn't make sense to target smaller cities and restrict their ability to grow.

The cities affected by Senate Bill 1093—those under 8,000 population—are very diverse, including resort and tourist communities, farming and ranching communities, logging and mining communities, bedroom communities, etc. Some of these communities are growing fast, some are growing slowly, and some are losing population. Senate Bill 1093 is an ill-fitting one-size-fits-all policy that will hurt growth and development in smaller communities, some of which desperately need to attract new businesses, investment, and jobs.

We appreciate your consideration of these issues and urge you to hold Senate Bill 1093 in committee.

Drafting Concerns – Senate Bill 1093

P. 1, l. 15: Applies only to cities with a "population of less than eight thousand (8,000)..." - When is population measured? Last census or Idaho Department of Commerce estimates on behalf of Census Bureau?

P.1, l. 21: City "shall pass an ordinance declaring its intent to do so" – Ordinances are local laws that govern within city limits. First, cities merely explore annexation through the hearing process. Zoning procedures don't allow predetermination. Second, a motion or resolution would be the appropriate tool to start the process – at much less public cost.

P. 1, ll. 21-23: Ordinance must comply with "all state and local laws and rules governing the adoption of an ordinance" – Again, an ordinance is not the proper tool to start the process.

P. 1, ll. 23-24: Refers to passage of an ordinance "to annex adjacent territory ...". Prior lines only reference ordinance provisions declaring intent to annex (not what cities most frequently do), not actually annexing. Phrase is inconsistent with prior sentences.

P. 1, ll. 23-27: Process for publication of ordinance (if it was the appropriate tool) is otherwise provided by Idaho Code (§50-901).

P.1, ll. 27-35: Legal notice called for is extremely lengthy and differs significantly from existing process [Idaho Code §50-222(5)(b)] that is just as effective and far less costly. The required notice must be printed fourteen (14) times for cities that use a daily newspaper as their official newspaper, a substantial waste of resources. Unclear what publication requirements would apply for cities that use weekly newspapers. This provision also purports to require a time limit for providing services and a statement requiring return of taxes if promised services are not provided – all without providing standards.

P. 1, ll. 35-37: Services referenced fail to distinguish between tax-supported services and fee-supported services as referenced in current law [I.C. §50-222(5)(b)(iii)].

P. 1, ll. 38-41: Public hearing must be held "one (1) week after the last legal notice has been published". Best practice is to establish minimum notice requirements. This provision would require scheduling a hearing based on the newspaper publishing schedule – no option would exist. Hearing procedure is inconsistent with procedural steps in I.C. §50-222. Current process includes lengthy time to hear from and exchange information with those whose lands might be considered for annexation.

P. 2, ll. 2-7: Public hearing notice must be published for seven (7) days prior to the public hearing. Notice must be published for seven consecutive days if the city uses a daily newspaper as its official newspaper. Is this in addition to the fourteen publications required at P. 1, l. 35? If so, notice would need to be published twenty-one (21) times. If hearing is continued, it would need to be published fourteen (14) or twenty-one (21) more times for each continued date.

P. 2, ll. 13-20: Protests could be submitted to the city council, the city attorney, city clerk, the mayor or the planning and zoning board within five (5) business days after the public hearing(s). So any protest by

any resident, even one who doesn't own land could stop annexation. Even a written protest by one who had contracted to consent to annexation would halt proceedings. Such a process raises issues of interference with contract.

P. 2, ll. 21-32: A single protest would require the conduct of an election, although revisions to I.C. §50-222(3)(a) proposed on P. 3, ll. 39-42 require 25% of landowners to protest in order to require an election. Provisions referenced are internally inconsistent. The election is to be conducted by the county even though the boundary will not conform to precinct boundaries. Participation would exclude non-resident property owners and would include residents who own no property. (Those who live in an apartment building could defeat a proposal by an owner needed to save his building (failed well or septic system); the non-resident owner could not vote.)

P. 2, ll. 47-49: The proposal appears to require duplicate proceedings; calling for compliance with provisions of I.C. §50-221A, and then, if approved, calling for annexation on October1, after "perfection of the required processes as specified in sections 50-222 through 50-224, Idaho Code." - depending on what "perfection" means.

P. 3, ll. 3-4: The procedures of 50-221A are deemed to only apply to annexations "initiated by cities". What if a Category B annexation is initiated by a land developer who holds an option and annexation of an additional parcel or two is needed to provide contiguity. Would the development be blocked by an election?

P. 3, ll. 39-42 and PP. 3/4, ll. 48-2: Both of the proposed revisions call for signatures by 25% of the owners (owners as a marital community, undivided ownership of the whole, stockholders in a corporation, partners in a partnership, members of an LLC ...?) while the provisions in proposed I.C. §50-221A (P.2, ll. 21-23) requires an election if any single property owner protests.

→ S 1093 (SON OF S 1065)

In general the provisions in SB 1065 raise the following drafting issues:

- The choice of procedures is inconsistent with well-established municipal processes
- Publication standards are needlessly burdensome and costly
- Provisions in the proposed §50-221A are inconsistent with existing law in many ways.
- Property rights protected by existing law are overridden by voters rights in the proposal
- Orderly development of urban areas is cast aside – contrary to more than 100 years of precedent