

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 17, 2018

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Johnson, Vice Chairman Bayer, Senators Hill, Siddoway, Rice, Vick, and Nye

ABSENT/ EXCUSED: Senators Patrick and Burgoyne

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 Johnson** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:03 p.m.

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

RS 25760 **Relating to Fire Protection District Elections.** **Chairman Johnson** presented **RS 25760**, which will remove language regarding the election notification process of fire protection districts, bringing this process into compliance with Idaho Code § 34-1406.

MOTION: **Senator Hill** moved to print **RS 25760**. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

RS 25770 **Relating to Compensation of Fire Protection District Commissioners.** **Chairman Johnson** presented **RS 25770**, which will amend Idaho Code § 31-1421 to increase the daily compensation for fire protection district commissioners.

MOTION: **Senator Hill** moved to print **RS 25770**. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0103-1701 **Property Tax Administrative Rules.** **Alan Dornfest**, Property Tax Policy Bureau Chief, Idaho State Tax Commission (Commission), presented this pending rule docket.

The proposed changes to Section 509 pertain to abstracts of taxable value of real property and identification of urban renewal increment and partial exemption values. Abstracts are summary documents, prepared by county clerks, that counties provide to the Commission on behalf of taxing districts. **Mr. Dornfest** stated that many county clerks expressed concern about the accuracy of information they received from assessors and auditors. The Commission worked with county clerks to clarify this process and outline document signature requirements.

The proposed changes to Section 609 pertain to the homeowner's exemption as it applies to partial ownership of property. **Mr. Dornfest** reported that historically, when there was an unspecified interest in community property among three parties, partial ownership was divided into thirds for the purposes of this exemption. With input from various county prosecutors' offices and Commission legal staff, the Commission determined the community property interest needed to be changed to provide uniformity throughout the State. The rule change instructs assessors to calculate the community property interest for partial ownership as 50 percent rather than 66 2/3 percent.

Vice Chairman Bayer asked for clarification regarding the number of homeowners potentially impacted by this change. **Mr. Dornfest** reported that within the Circuit Breaker Property Tax Reduction (PTR) program - which will also be impacted by this change in a companion rule - 83 of 27,000 accounts would be affected. This would result in \$800 of additional benefits being paid from the \$17 million benefit program.

Senator Hill commented on how the interpretation of unspecified ownership interests in partial ownership property by the Commission has changed since 1998, rendering the community property interest at 66 2/3 percent rather than 50 percent of total ownership. He asked Mr. Dornfest to explain what changes occurred to authorize this potential increase in taxation. **Mr. Dornfest** stated that the potential change in taxation is a result of a change in interpretation of how to apply the exemption to community property interests when ownership is not specified. The proposed rule is intended to provide consistency in the application of the exemption.

Senator Rice inquired if the Commission is reacting to county prosecutors advising counties to not adhere to current law. **Mr. Dornfest** stated that the Commission agrees with and supports the proposed rule changes. **Senator Rice** commented that the legal presumption for a tenancy in common is that each party has an equal share of property unless proven otherwise; he questioned the legality of treating a husband and wife as one entity in such a circumstance.

Mr. Dornfest asked George Brown, Deputy Attorney General assigned to the Tax Division of the Commission, to discuss the legal basis for the proposed rule change. **Mr. Brown** indicated that interpretation and application of this rule was not uniform among counties. During the rulemaking process, and with input from county prosecutors, the Commission determined that uniformity as to how unspecified partial interests are treated for exemption purposes was appropriate.

Senator Rice commented that in his experience, a married couple on a deed is represented as husband and wife, regardless of the percentage of ownership. He asked Mr. Brown to address how community property deeds are treated differently. **Mr. Brown** stated that in his opinion, for community property, a husband and wife are considered one entity and entitled to 50 percent.

Mr. Dornfest continued to present **Docket No. 35-0103-1701**. The proposed change to Section 619, which pertains to the statutory exemption for facilities for water or air pollution control, will change the filing date from March to April 15 to conform to Idaho Code § 63-602 and provides consistency with other exemptions.

Section 700 is a companion rule to Section 609 and will apply the same changes to the Circuit Breaker (PTR) program. It will also update the homeowner's exemption to \$100,000.

The proposed changes to Section 804 pertain to the computation of a tax levy rate when an urban renewal district and taxing district overlap. **Mr. Dornfest** reported that the date for an urban renewal agency to submit attestation regarding plan modifications will be changed to the first Monday of June to conform to statute. The proposal will also create a new subsection stating that when there is refinancing of bonded debt, the bond is not considered a new bond but may still generate revenue for urban renewal agencies.

The proposed changes to Section 995 pertain to the disbursement of withheld sales tax funds when taxing districts or urban renewal agencies return to compliance with reporting requirements outlined in Idaho Code §§ 67-450E and 50-2913. Once in compliance, the Commission must remit previously withheld sales tax revenue no later than the next quarterly sales tax distribution due date.

MOTION:

Senator Rice moved to approve **Docket No. 35-0103-1701** with the exception of Sections 609 and 700. **Senator Vick** seconded the motion.

Vice Chairman Bayer called for a roll call vote. **Senators Rice** and **Vick** voted aye. **Chairman Johnson, Vice Chairman Bayer, Senators Hill, Siddoway,** and **Nye** voted nay. The motion failed.

MOTION: **Senator Hill** moved to approve **Docket No. 35-0103-1701. Senator Siddoway** seconded the motion.

Chairman Johnson commented on the legal complexities of this docket and asked that the Commission keep the Committee informed of relevant problems as they arise in the future.

The motion carried by **voice vote**.

Due to scheduling considerations, the Committee deferred discussion on **Docket No. 35-0103-1704**.

DOCKET NO. 35-0103-1706 **Property Tax Administrative Rules. Mr. Dornfest** indicated that Sections 610 and 709 are companion rules to Section 609 and both pertain to the administration of the homeowner's exemption. Section 610 will change the community property interest examples from two-thirds to one-half. **Senator Rice** asked if the rule change is written in a way that precludes the ability of an owner to prove the interest is different than one-half by a husband and wife. **Mr. Dornfest** replied that the rule simply provides examples and the Commission defers to the specific interests detailed in a deed. He stated that Section 709 pertains to the Circuit Breaker PTR program and makes the same changes to partial interest from two-thirds to one half.

Chairman Johnson inquired as to input received during negotiated rulemaking. **Mr. Dornfest** stated the Commission worked on this rule change for two years and did not receive any public comments.

Senator Rice asked if the Commission sought input from senior citizen groups during the rulemaking process. **Mr. Dornfest** replied the Commission did not contact such groups.

MOTION: **Senator Siddoway** moved to approve **Docket No. 35-0103-1706. Chairman Johnson** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0103-1707 **Property Tax Administrative Rules. Mr. Dornfest** presented Section 020, amended consistent with 2017 HB 156, which pertains to the valuation of recreational vehicles. Assessors needed guidance as to how to collect registration fees and property tax for park model recreational vehicles. **Mr. Dornfest** explained that this rule will create procedures for assessors to value such vehicles.

MOTION: **Senator Rice** moved to approve **Docket No. 35-0103-1707. Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0103-1709 **Property Tax Administrative Rules. Mr. Dornfest** presented Section 006 which pertains to incorporation by reference. This section is updated annually to ensure current references to publications and reference materials. He indicated that the Commission monitors and updates obsolete reference materials and URLs to ensure the most current information is referenced.

Section 406, amended consistent with 2017 HB 30, pertains to the valuation of rate-regulated electric utilities. **Mr. Dornfest** explained that the flotation cost component of 0.20 percent must be added to the market discount rate when valuing rate regulated electric utility companies; this change will be made to Section 406 to align the rule to statute. Additionally, an obsolete URL link was deleted.

MOTION: **Senator Nye** moved to approve **Docket No. 35-0103-1709. Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Vice Chairman Bayer** adjourned the meeting at 4:00 p.m.

Senator Johnson
Chair

Jennifer Carr
Secretary