

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, January 18, 2018

TIME: 3:00 P.M.

PLACE: Room WW53

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

ABSENT/ EXCUSED: None

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 3:00 p.m.

H 335 **Relating to Employment Security Law. Melinda Smyser**, Director, Idaho Department of Labor (IDOL), presented **H 335**. **Director Smyser** stated this legislation will reduce the unemployment insurance taxes paid by businesses by \$115 million over three years, while maintaining the solvency of the unemployment reserve fund. **H 335** will amend Idaho Code § 72-1350 by adjusting the unemployment fund size multiplier from 1.5 to 1.3, and will make this change retroactive to January 1, 2018. **Director Smyser** reported no fiscal impact to the General Fund but estimated additional costs to the IDOL relating to implementation. She stated that passage of **H 335** by February 28, 2018, will prevent the need for the IDOL to issue employer unemployment insurance tax credits for payments made during the first quarter of 2018.

Senator Hill asked for clarification regarding proposed language in Idaho Code § 72-1350(2). **Director Smyser** asked Salvador Vasquez, Labor Market Information Director for IDOL, to respond. **Mr. Vasquez** explained that this section will change the effective date to January 1, 2018, to allow the IDOL to make retroactive changes and re-issue new tax notices.

Senator Nye asked why the fund size multiplier will be reduced to 1.3. **Mr. Vasquez** stated that current law mandates a multiplier of 1.5 for the fund to remain solvent; however, the fund is solvent at a multiplier of 1.3 and able to maintain a balance that is sufficient to sustain any potential recession.

TESTIMONY: The following individuals spoke in support of H 335: **John Eaton**, Idaho Association of Commerce and Industry; **John Watts**, Idaho Chamber Alliance; and **Suzanne Budge**, National Federation of Independent Business.

MOTION: **Senator Burgoyne** moved to send **H 335** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

CONFLICT OF INTEREST: Pursuant to Senate Rule 39(H), **Senator Patrick** disclosed a possible conflict of interest under applicable law.

The motion carried by **voice vote**.

RS 25679 **Relating to Distribution of Sales Tax Revenue.** **Doreen Warren**, Public Information Director, Idaho State Tax Commission (Commission), presented **RS 25679**. This legislation will amend Idaho Code § 63-3638 to clarify the established process for the Commission to distribute sales tax revenue. **Ms. Warren** stated these changes are procedural in nature and will have no fiscal impact on state revenue.

MOTION: **Senator Siddoway** moved to print **RS 25679**. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

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

DOCKET NO. 35-0101-1701 **Income Tax Administrative Rules.** **Cynthia Adrian**, Tax Policy Specialist with the Commission, presented this pending rule docket. She stated this was non-negotiated rulemaking required by statute.

The proposed change to Section 075 relates to tax on individuals, estates, and trusts and will update tax brackets for calendar year 2017.

The proposed change to Section 263 will adjust the amount of guaranteed payments that are sourced as compensation for services for tax year 2017. **Ms. Adrian** explained how the guaranteed payment is calculated and that the amount is rounded to the nearest hundred.

The proposed changes to Section 771 will cap the grocery tax credit at \$100 for tax year 2015 and beyond. **Ms. Adrian** indicated this inclusive language will preclude the need to revisit this rule annually.

MOTION: **Chairman Johnson** moved to approve **Docket No. 35-0101-1701**. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0109-1701 **Idaho County Option Kitchen and Table Wine Tax Administrative Rules.** **Ms. Adrian** explained that the Commission is proposing that Section 017 be stricken and selected provisions be introduced in Section 003, Administrative Appeals, and Section 006, Incorporation by Reference. She noted that these changes align with rulemaking requirements set forth by the Idaho Department of Administration.

Senator Hill asked for more information regarding the wine tax and the estimated number of counties that utilize this tax. **Ms. Adrian** explained this tax is a state and county option tax, and that she would provide the data requested.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 35-0109-1701**. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0109-1702 **Idaho County Option Kitchen and Table Wine Tax Administrative Rules.** **Ms. Adrian** stated these pending rules were negotiated rulemaking.

Section 011 describes when dispositions of wine are subject to the wine tax. **Ms. Adrian** stated the proposed rule change will require a winery to maintain records of taxes paid on supplemental inventory purchased from a distributor. Without adequate record of taxes paid, the Commission may apply the wine tax to these purchases.

Section 015 pertains to wine tax permit reporting. **Ms. Adrian** explained the Commission currently has no mechanism to cancel wine tax permits. The proposed rule change will allow the Commission to cancel a permit that has been inactive for 12 consecutive months after providing written notice to the permit holder.

Senator Burgoyne asked how the Commission defines "not actively engaged" in Subsection 15.03. **Ms. Adrian** replied that the Commission considers a winery not actively engaged in activities requiring a wine tax permit if it does not report activity for 12 months. A permit will not be canceled if a winery contacts the Commission prior to 12 months of inactivity.

Senator Vick inquired what prompted the proposed changes to Section 011. **Ms. Adrian** explained the intent is to provide clarity for wineries regarding the application of wine tax to supplemental inventory.

Chairman Johnson asked who participated in negotiated rulemaking. **Ms. Adrian** reported that Roger Batt, Idaho Grape Growers and Wine Producers, participated and supported the proposals.

Senator Siddoway asked for clarification regarding reference to four percent alcohol by weight in Section 011. **Ms. Adrian** reported that the percentage has been four percent, but it was never specified in statute.

Vice Chairman Bayer asked for an estimation of how many permits are canceled due to inactivity. **Ms. Adrian** reported that very few of the approximately 150 issued permits had been canceled.

Senator Nye asked for clarification regarding the use of the word "may" in Subsection 15.03, and how the Commission notifies permit holders prior to cancellation. **Ms. Adrian** stated the Commission sends two letters to a permit holder prior to cancellation if the permit is not active for 12 months. The Commission will not cancel a permit prior to 12 months.

MOTION: **Senator Vick** moved to approve **Docket No. 35-0109-1702**. **Senator Rice** seconded the motion.

SUBSTITUTE MOTION: **Senator Nye** moved to approve **Docket No. 35-0109-1702** with the exception of Subsection 15.03. The motion failed due to lack of a second.

VOTE ON ORIGINAL MOTION: The motion carried by **voice vote**.

DOCKET NO. 35-0110-1701 **Idaho Cigarette and Tobacco Products Tax Administrative Rules.** **Ms. Adrian** presented proposed changes to Section 006, which will add income tax administration and enforcement statutes and related rules adopted in Idaho Code §§ 63-2516 and 63-2563.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 35-0110-1701**. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0112-1701 **Idaho Beer Tax Administrative Rules.** **Ms. Adrian** stated these rules are not reviewed annually and are not negotiated rulemaking. The Commission is proposing that Section 014 be stricken and selected provisions be introduced in Section 003, Administrative Appeals, and Section 006, Incorporation by Reference. **Senator Siddoway** asked if this applies only to beer brewed in Idaho. **Ms. Adrian** affirmed.

MOTION: **Senator Rice** moved to approve **Docket No. 35-0112-1701**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0112-1702 **Idaho Beer Tax Administrative Rules.** **Ms. Adrian** presented the proposed change to Section 011, which describes when dispositions of beer are subject to the beer tax. The proposal will require a brewery to maintain records of taxes paid on supplemental inventory purchased from a distributor. Without adequate record of taxes paid, these purchases are subject to the beer tax.

Section 016 pertains to beer tax permit reporting. **Ms. Adrian** stated the proposed rule change will allow the Commission to cancel a permit that has been inactive for 12 consecutive months after providing written notice to the permit holder.

MOTION: **Senator Vick** moved to approve **Docket No. 35-0112-1702**. **Senator Nye** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0201-1701 **Tax Commission Administration and Enforcement Rules.** **Ms. Adrian** explained that Sections 326, 327, and 328 are being amended consistent with 2017 HB 23 and 24 regarding the appeals process. Definitions will be added and procedures will be established that specify permitted communications between the appeals unit, originating division, and others during the appeals process. **Ms. Adrian** noted that the proposal will include notification requirements to ensure that a petitioner has advance notice of communication between the appeals unit and originating division regarding his/her case.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 35-0201-1701**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 35-0201-1703 **Tax Commission Administration and Enforcement Rules.** **Ms. Adrian** presented the proposed changes to Section 310, which will update the interest rate for calendar year 2018 and the Revenue Ruling where the federal rate for the calculation can be found.

MOTION: **Senator Hill** moved to approve **Docket No. 35-0201-1703**. **Senator Nye** seconded the motion.

Senator Vick asked how the interest rate is determined, and **Ms. Adrian** provided the calculation.

The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Vice Chairman Bayer** adjourned the meeting at 3:55 p.m.

Senator Johnson
Chair

Jennifer Carr
Secretary