

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Tuesday, February 05, 2019

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

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Rice, Vice Chairman Grow, Senators Hill, Anthon, Lakey, Cheatham, Burgoyne, and Nye

**ABSENT/ EXCUSED:** Senator Vick

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

**H 25** **Relating to Annexation: Amending Idaho Code § 50-222 to Provide a Requirement Regarding Annexation of Certain Agricultural Land.** **Representative Mike Moyle** presented **H 25**, stating for years there has been considerable discussion on annexation. Idaho is one of only four states that still allow forced annexation. This creates a possibility of taxes increasing 40 to 50 percent without changing the use, and causes land to be turned into development because the owner cannot afford the taxes. The compromise with this legislation is land actively devoted to agriculture stays agriculture; it cannot be annexed by force, only with written consent of the landowner. Regarding the concern over written agreements not carrying forward, the landowner signs with the city and they provide services; the agreement is binding into the future. Large agricultural tracts are not using city services, and it is a benefit to leave them and not force annexation.

**DISCUSSION:** **Vice Chairman Grow** stated often a piece of land will be sold as five acres, but is actually 4.8 or 4.9 acres. He asked how the entire subdivision is protected if it is surrounded by the city. **Representative Moyle** clarified the land must be five acres or more to be protected. **Vice Chairman Grow** questioned what happens if some in the area meet the criteria for protection from annexation and some do not. **Representative Moyle** responded the city would be required to protect them, perhaps using enclaves. When cities provide services, they are able to grow from the center out.

**Senator Nye** inquired if he knew the opinion of the Attorney General. **Representative Moyle** responded that the Attorney General's office believes forced annexation is legal, which is a concern to him. **Senator Nye** further questioned if five acres or more can currently be annexed by a city, which **Representative Moyle** confirmed.

**Senator Lakey** stated he believed annexation as described to be rare, so his question was regarding the emergency clause. **Representative Moyle** objected to this statement, advising that it is not rare. He cited the situation in Middleton, where it would have occurred if not for the city council. Often there is no recourse as they cannot vote for the council until they are annexed. **Senator Lakey** asked the record show that he represents several cities. **Chairman Rice** stated the conflict would be noted. **Senator Anthon** asked the record show he was employed by a city as well.

- TESTIMONY:** **Jerry Mason**, Counsel, Association of Idaho Cities (Association) stated the Association did not wish to enter an objection to the proposal - they are neutral on the matter. However, the Association did agree with Senator Lakey in the opinion that the annexation of agricultural lands by cities is quite rare. **Mr. Mason** advised there was no legal quarrel with the interpretation, it was about communication. The goal was to help people who come to a hearing understand there can be no opposition to something that has been legally consented to. Cities are not looking for annexation of agricultural land; it occurs when someone seeks to change the land use, or when it is surrounded and no longer viable as farmland. There are provisions of Idaho Code, Title 50, Chapter 2, which provide steps whereby any landowner who has agricultural land greater than five acres can petition the court and is excluded from the city as a matter of right.
- DISCUSSION:** **Senator Lakey** concurred with Representative Moyle regarding the written agreement being permission of the owner and usually recorded and binding. **Mr. Mason** stated they are only concerned with civility at a hearing where the owner is third or fourth in a chain, and the original owner consented to annexation in exchange for services. **Senator Burgoyne** advised if a property owner executes a document consenting to annexation in the future, it binds their successors depending on the wording of the document. He then inquired if there are such agreements where the successor being bound is a matter of legal dispute. **Mr. Mason** responded in his experience it does not happen because the property owner has the public utilities they desired.
- TESTIMONY:** **Russ Hendrichs**, Idaho Farm Bureau (Bureau) stated they are in support of **H 25**. It is important to remember most of these farms were originally located outside of a city, and the city has grown and encroached upon the farm. It is hard enough to farm surrounded by city without the additional tax burden if annexed. **Mr. Hendrichs** pointed out that page 2, section 4 of **H 25** defines consent to annexation and how it is binding upon heirs or subsequent purchasers.
- DISCUSSION:** **Representative Moyle** explained how he had purchased property in the past where there had been an agreement filed and recorded that whether the property was divided it remained tied to those separate parcels. The express written permission that is in the language now covers and follows the property. Cities do annex property where consent was written and signed by someone else at a later date. An example would be when Boise ran sewer lines south of town and did not annex properties until years later. Some properties had changed many times and were still annexed because they had a consent for when services were brought. Cities need to move from the center out.
- MOTION:** **Senator Nye** moved to send **H 25** to the floor with a **do pass** recommendation. **Vice Chairman Grow** seconded the motion.
- DISCUSSION:** **Senator Lakey** stated he would be supporting the motion, and he appreciated the follow up comments. Knowing the consent was binding on subsequent purchasers was important. **Senator Anthon** advised the Committee of his work on annexation matters. He stated in his current position in the last five to six years, city boundaries have grown at 15 percent, all voluntary. There is value in building a consensus in the community to the overall goals moving into annexation. Idahoans favor the policy position to protect our farmland. He also believes this will assist attorneys regarding consent for annexation, get them signed, notarized and recorded, and give adequate notice to future property owners. He concluded it seemed good policy with the various interests protected.
- VOICE VOTE:** The motion to send **H 25** to the floor with a **do pass** recommendation carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman Rice** adjourned the meeting at 3:34 p.m.

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Senator Rice  
Chair

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Machele Hamilton  
Secretary