

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Thursday, March 10, 2022

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

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Rice, Vice Chairman Grow, Senators Vick, Lakey, Souza, Bayer, Ricks, Nye, and Semmelroth

**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 Rice** convened the meeting at 3:02 pm.

**MINUTES APPROVAL:** **Senator Ricks** moved to approve the minutes of the Senate Local Government and Taxation Committee meeting of March 1, 2022. **Vice Chairman Grow** seconded the motion. The motion to approve the minutes of March 1, 2022 passed by **voice vote**.

**H 689** **Representative Manwaring** presented **H 689**. He explained that **H 689** deals with the responsibilities and delegations of authority of the Idaho State Tax Commission (Commission). Last year **H 214** attempted to strike balance of the day to day authority between the chairman of the Commission and the full Commission. **H 214** authorized a single commissioner to place a decision item before the Commission. **H 689** required the majority of the commission to bring a decision item before the Commission. Delegations of authority and assignments of authority can be reviewed by the Commission.

**MOTION:** **Vice Chairman Grow** moved to send **H 689** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion. The motion passed by **voice vote**. Vice Chairman Grow will carry the bill on the floor.

**H 713** **Ken McClure**, of Givens Pursley representing the Idaho Society of CPAs, presented **H 713**. He first provided some background and noted that Congress limited the number of deductions that individuals can take on their state income taxes to \$10,000, but allowed businesses to deduct the entire amount of state taxes paid. The State and Local Tax (SALT) work around for that allowed pass through entities such as partnerships, sub S corporations and LLCs to get the same amount of deduction on their federal taxes as other businesses get. It allowed the business itself, rather than the individual members, to pay the taxes on behalf of its members. Idaho adopted the SALT workaround in **H 317** last year. However, it was discovered that **H 317** did not include tiered entities where a partnership is an owner of a sub S corporation or a sub S corporation had an LLC as a shareholder and would not allow the tax benefits to accrue to the individual. **H 713** corrects that problem.

**DISCUSSION:** **Chairman Rice** asked Mr. McClure to discuss the fiscal note. **Mr. McClure** explained that **H 713** would cost the state nothing. The same amount of taxes were paid, but they were paid by the entity rather than the individual.

**MOTION:** **Vice Chairman Grow** moved to send **H 713** to the floor with a **do pass** recommendation. **Senator Semmelroth** seconded the motion. The motion passed by **voice vote**. Vice Chairman Grow will carry the bill on the floor.

- H 714** **Ken McClure**, of Givens Pursley representing the Idaho Society of CPAs, presented **H 714**. He explained that Congress enacted legislation many years ago to allow bonus depreciation, however, Idaho opted to not conform to that legislation due to the high cost. **Mr McClure** stated that **H 714** addressed part of the concerns related to Idaho opting out of the bonus depreciation. He explained that normally, if you take depreciation, it reduces your basis. When you sell the asset you may pay taxes on the gain. Your basis for state tax purposes is the same as for federal tax purposes. Under the bonus depreciation law, you were allowed to take additional depreciation on your federal taxes, but not your state taxes. Legislation last year addressed this discrepancy. However, the Commission had interpreted that legislation as new law rather than a clarification of existing law and had continued to use the old law in audits. **H 714** made last year's legislation retroactive and clarified other issues for the Commission.
- DISCUSSION:** **Matthew Grow**, with the Idaho Society of CPAs, stated that he was present to answer any questions, but there were none.
- MOTION:** **Vice Chairman Grow** moved to send **H 714** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion passed by **voice vote**. Vice Chairman Grow will carry on the floor.
- H 635** **Representative Okuniewicz** presented **H 635**. He explained that **H 635** clarifies Idaho Code § 50-222 and allowed a property owner to pick which city he or she wants to be annexed to in situations where they live on a county property that is contiguous to more than one city. It required that all landowners consent to annexation.
- TESTIMONY:** **Shelby White** resident of Star opposed **H 635** because it allowed a city to force annexation without any voice.
- DISCUSSION:** **Senator Souza** commented that she did not read **H 635** as allowing a city to annex landowners within their area of impact.
- TESTIMONY:** **Trace Leighton**, representing his homeowner's association, expressed a concern regarding forcing residents to be annexed without being given a voice. He stated that individuals should be able to rely on an existing comprehensive land use plan and that a developer should not be able to purchase land and then ask the city to change the comprehensive land use plan.
- DISCUSSION:** **Senator Bayer** stated that she felt that **H 635** required the consent of the landowners prior to annexation. **Vice Chairman Grow** asked whether amending **H 635** to read that "residents" rather than "landowners" could decide which city they wish to be annexed to would make him happier. **Mr. Leighton** replied that it would.
- TESTIMONY:** **Mayor John Evans** of Garden City stated that he felt that a county's comprehensive land use plan created an expectation and property right. He cited several concerns regarding **H 635**. First, **H 635** was in conflict with Idaho Code § 50-222 that requires the orderly planning and development of a parcel. In addition, **H 635** was in conflict with Idaho Code § 67-6526 that required notice and hearing procedures for establishing or amending an area of impact.
- DISCUSSION:** **Senator Ricks** asked whether a group of homeowners could decide they want to move to a neighboring city. **Mayor Evans** responded that they could, but it required compliance with annexation procedures. **Chairman Rice** asked whether, when a city annexed a piece of county property, the city determines the zoning and land use. **Mayor Evans** responded that was correct.

**TESTIMONY:** **Mayor Steve Rule** of Middleton expressed a concern regarding action taken by the city of Star to seek approval of the Canyon Commissioners to annex an area already within the city of Middleton's area of impact. He conveyed a desire to hold **H 635** and let the process of annexation take play out.

**Keri Smith**, Chairman of the Board of Canyon County Commissioners. She noted that there were 13 purposes of the Land Use Planning Act (LUPA), the first of which was property rights. The second purpose was to ensure that adequate public facilities and services were provided at a reasonable cost. She expressed a concern regarding two communities spending taxpayer money on the same infrastructure. She expressed a further concern regarding how areas of impact were created. One of the requirements for establishing an area of impact is that the city must be able to annex within a reasonable time. A third purpose of LUPA was to support agriculture, but it was difficult for an individual to say that he or she was supporting agriculture when the individual knew that after annexation the property was going to be developed.

**Scott Emerich**, a Star resident, stated that the legislative intent of Idaho Code § 50-222 was that cities should be able to annex lands that are reasonably necessary: 1. To ensure the orderly development of cities, 2. In order to follow efficient and economically viable provision of tax supported and fee supported municipal services, and 3. To enable orderly development of private lands which benefit from cost effective availability of municipal services. Mr. Emerich asserted that by allowing a city to annex land and extend into any city's area of impact, the orderly development and cost effective provisions prescribed in the legislative intent were negated.

**Steve Burton**, a Star resident, argued that landowners purchased their property with an expectation based on the land use comprehensive plan regarding zoning and lot size. **Senator Vick** noted that the city could change the zoning.

**JoAnn Butler**, a Boise resident, asserted that the area of impact statute requires a very public process. **H 635** will undermine the power and right of cities and counties to contract with one another to create an area of impact. In addition, it will further undermine the rights of landowners who rely on the promises and obligations.

**Rosalyn Studarus**, a Star resident, expressed a concern regarding developers coming in and creating denser housing and denser traffic and further expressed concerns about aquifers and water.

**Rodney Ashby**, Nampa city planner, stated that as a city planner he was looking for tools for reasonable growth and that would take into account taxpayer dollars. He expressed a concern that **H 635** weakened the area of impact.

**DISCUSSION:** **Senator Vick** referenced earlier testimony and asked whether 16 years was a reasonable time within which to have an area of impact and not develop it. **Mr. Ashby** responded that there was not a clear answer in Idaho Code.

**TESTIMONY:** **Ron Brutsman**, a Nampa resident, expressed a concern for a developer coming in and building three houses per acre around his three acre property.

**Bianca Stevenson**, representing the mayor of Caldwell, relayed Mayor Wagner's concerns regarding **H 635**. Mayor Wagner requested that the committee hold the bill and work to add additional language regarding whether neighboring cities whose impact area the land owner is proposing to annex into has legitimate plans for sewer and water into those areas.

**Chris Meyer**, of Givens Pursley representing the city of Middleton, argued that **H 635** would cut the heart out of LUPA. The area of impact is the core of LUPA. **H 635** would allow another city to go into an area of impact that a city and developer have already invested money in for infrastructure such as a sewer line.

**Mayor Robert Simison** of Meridian stated that the legislature should not become involved in a dispute between two cities. He felt that the cities should work together to resolve their problems.

**Mayor Debbie Kling** of Nampa provided an example of how **H 635** would affect her city. Nampa had a waste water treatment project in the planning for ten years that the voters approved a bond for four years ago. She asserted that projects such as this took years of planning and that **H 635** would cost the taxpayers of Nampa millions of dollars.

**Representative Ned Burns** spoke in favor of the bill and stated that he witnessed as Mayor of Bellevue, what he considered to be use of area of impact as a land grab tool. He further stated that **H 635** promoted property rights and allowed homeowners to choose which city they want to be annexed to.

**Jim Hunter**, owner of Hunter Homes, spoke in favor of **H 635** stating that his business purchased land with the intention of developing the land and putting in infrastructure after connecting to city services adjacent to them.

**Mayor Trevor Chadwick** of Star, stated that **H 635** would help clarify property rights. He argued that **H 635** allowed a city to create an area of impact that may take years to develop. He further stated that Idaho Code § 67-6526(b) required that in defining an area of impact the following factors must be considered: trade area, geographic factors, and area that could reasonably be expected to be annexed to the city in the future.

**MOTION:** **Senator Vick** moved that the committee hold **H 635** subject to the call of the chairman. **Senator Bayer** seconded the motion. The motion passed by **voice vote**.

**ADJOURNMENT:** There being no further business at this time, **Chairman Rice** adjourned the committee at 4:40 pm.

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Senator Rice  
Chair

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Meg Lawless  
Secretary