

MINUTES  
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE**

**DATE:** Tuesday, February 14, 2023

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

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Ricks, Vice Chairman Schroeder, Senators Cook, Adams, Bernt, Trakel, and Rabe

**ABSENT/ EXCUSED:** Senators Grow and Just

**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 Ricks** called to order the Senate Local Government and Taxation Committee (Committee) at 3:01 p.m.

**MINUTES APPROVAL:** **Approval of Minutes of February 2, 2023.** **Senator Bernt** moved to approve the minutes of February 2, 2023. **Senator Cook** seconded the motion. The motion to approve the minutes of February 2, 2023 passed by **voice vote**.

**S 1074** **Aviation.** **Senator Okuniewicz** presented **S 1074**. He stated that this bill clarified that all long term leases in all airports were not subject to the public auction requirement for leases in excess of five years.

**DISCUSSION:** **Senator Cook** requested that Senator Okuniewicz go into more detail regarding the interaction between Idaho Code §§ 21-401 and 31-836(1). **Senator Okuniewicz** explained that he had received guidance from the Attorney General's office that the interaction was ambiguous and the exemption of airports from the requirement to hold public auction for leases exceeding 5 years needed to be clarified.

**Senator Rabe** asked whether airports and cities supported this bill. **Senator Okuniewicz** replied that Kootenai County asked him to help with this bill and supported it.

**Chairman Ricks** requested that Senator Okuniewicz provide an explanation of the current procedures regarding long term leases. **Senator Okuniewicz** explained that airports typically entered into long term leases for as long as 99 years after negotiations with the lessor. Airports were exempt from the public auction requirement for long term leases. Non aviation leases required a public auction. **Vice Chairman Schroeder** explained that Idaho Code § 31-836 pertained to counties and was a restriction on the ability of counties to lease county property. Both airport statutes authorized counties, highway districts and cities to operate and maintain airport facilities. Cities did not have the same restrictions regarding long term leases as counties did. Therefore, if cities and counties jointly ran an airport, they would not be subject to the public auction requirement for long term leases. **Vice Chairman Schroeder** further explained that this bill provided that counties were exempt from the public auction requirement for long term leases as cities were.

**MOTION:** **Senator Cook** moved to send **S 1074** to the floor with a **do pass** recommendation. **Vice Chairman Schroeder** seconded the motion. The motion to send **S 1074** to the floor with a **do pass** recommendation passed by **voice vote**.

**TESTIMONY:** **Chairman Ricks** failed to notice that there was someone who had signed up to testify on **S 1074** and asked that Ms Hupp be permitted to testify.

**Rebecca Hupp**, Director of the Boise Airport stated that although they had not had a chance to review this bill, she did not think they objected to it. She requested the opportunity to review the bill and provide more feedback.

**S 1077**

**Local Government. Senator Okuniewicz** presented **S 1077**. He explained that he received guidance from the Attorney General's office that a long term lease agreement that contemplated profit sharing between the county, city, highway district or airport and a private entity probably required a public auction. **Senator Okuniewicz** stated that **S 1077** required a public auction in that situation.

**DISCUSSION:**

**Senator Rabe** asked whether this bill dictated how or under what terms the lessor chose or who the lessor chose as lessee during the bidding process, or whether **S 1077** created that process. **Senator Okuniewicz** responded that the bill referenced the notice and bidding procedures under Idaho Code § 31-808.

**Senator Schroeder** requested clarification on the difference between a straight lease and a lease with profit sharing. **Senator Okuniewicz** explained that a profit sharing arrangement was more risky in that you did not know how much revenue the business would generate. The barrier was lower and the lease was lower. A straight lease was based on market rate and was a flat amount. A profit sharing lease arrangement was based on a percentage of profit. **Vice Chairman Schroeder** asked whether it was the intent of this bill to not require a public auction in a lease based on a flat market rate or some other rate. **Senator Okuniewicz** stated that the bill only contemplated a public auction if there was profit sharing. **Vice Chairman Schroeder** asked Senator Okuniewicz whether he had spoken with the Idaho Association of Cities or other interested parties. **Senator Okuniewicz** replied that he had spoken with his county and a couple of other counties.

**TESTIMONY:**

**Rebecca Hupp**, Director of the Boise Airport, spoke in opposition to **S 1077**. She had concerns regarding the use of the terms "bids" and "auctions" interchangeably and the use of the term "profit sharing" rather than "revenue sharing." **Ms. Hupp** stated that they were not required to do a Request for Proposal (RFP) or bids for airline service. She felt that this bill had unintended consequences. For example, they would not be able to do a trial lease without a public auction. In addition, a flat rate lease would have resulted in lower revenue.

**DISCUSSION:**

**Senator Cook** asked why they wouldn't be able to do a trial lease. **Ms. Hupp** explained that if the lease was for more than 30 days they had to do a Request for Proposal (RFP) and comply with bid procedures. Revenue was not the only consideration in doing a trial lease. They considered the service provided. They might consider doing a pilot program with someone with disabilities. They wouldn't consider these trial leases if they had to go through the bid procedures. **Senator Cook** then asked how they handled a situation where more than one person wanted to lease a particular location. **Ms. Hupp** stated that they based their decision on market share.

**Vice Chairman Schroeder** sought clarification on whether this legislation prohibited them from leasing more than storage sheds. Would they be required to go through the bidding process for every lease which might preclude them from bringing in new airlines. **Ms. Hupp** replied that it would be problematic.

**Senator Rabe** asked Ms. Hupp to provide more information regarding why this legislation would preclude them from doing a trial lease. **Ms. Hupp** explained that in order to bring in a vendor during the holidays or a trial with a vending service such as a kiosk for food, CVS pharmacy, or iTunes Best Buy they would have to do a RFP. **Senator Rabe** also asked Ms. Hupp to further discuss the fiscal impact of this legislation on them. **Ms. Hupp** explained that, although it would be hard to quantify the fiscal impact, passenger numbers have increased 72 percent in the last ten years and using a flat rate rather than a percentage of revenue would have resulted in less revenue.

**TESTIMONY:** **Kelley Packer**, Executive Director of the Association of Idaho Counties, did not state a formal position on **S 1077** yet, but expressed some concerns regarding the bill. First, she was concerned that stakeholders were not involved in the discussion. She also felt that the language was too broad and would impact all city leases, not just revenue sharing leases. In addition, there would be increased costs associated with the RFP process required for small leases such as their \$3000 wastewater management lease. **Ms. Packer** stated that she would recommend opposing this bill.

**DISCUSSION:** **Vice Chairman Schroeder** clarified that **S 1077** pertained to an agreement between the city and a lessee to lease property belonging to the city. The city was not acquiring property by lease.

**Vice Chairman Schroeder and Senators Bernt and Rabe** expressed a desire to examine this bill more closely and perhaps have a discussion with stakeholders.

**MOTION:** **Senator Bernt** moved that **S 1077** be held in committee subject to the call of the chair. **Vice Chairman Schroeder** seconded the motion. The motion to hold **S 1077** in committee subject to the call of the chair passed by **voice vote**.

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

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Senator Ricks  
Chair

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Meg Lawless  
Secretary