

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 22, 2023

TIME: 3:00 P.M.

PLACE: Room WW53

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

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 Ricks** convened the meeting of the Senate Local Government and Taxation Committee (Committee) at 3:04 p.m.

PASSED THE GAVEL: Chairman Ricks passed the gavel to Vice Chairman Schroeder.

S 1055 **Education.** **Chairman Ricks** explained that this bill reduced the maximum amount of school bond payments a school board could levy in one year from 21 months to 14 months. He further stated that allowing 21 months of payments in one year resulted in 75 percent more income than was necessary for an annual bond payment and reduced that to 16.7 percent. He yielded his time to Brian Stutzman.

TESTIMONY: **Brian Stutzman** expressed concern that under current Idaho law school districts could collect up to 21 months of property tax payments toward a levy in 12 months. This resulted in school districts collecting more than was required to make bond payments. He explained that **S 1055** reduced that to 14 months and reduced property taxes. Page one of (Attachment 1) illustrated the levy amount of \$3 million required to make the minimum of 12 payments in one year and the levy amount of \$14 million required to make the maximum of 21 payments in a year. Page two of Attachment 1 showed the levy amount of .0018 percent with the minimum of 12 months of payments in one year and .0036 percent with the maximum of 21 months of payments in one year as permitted under current law.

DISCUSSION: **Senator Cook** asked Mr. Stutzman to further explain the purpose of **S 1055** and what it did. **Mr. Stutzman** explained that current law allowed school districts to charge taxpayers based on a minimum of 12 months of bond payments up to 21 months of payments in one year, more than needed to make bond payments. The Idaho Falls School District 91 collected over \$8 million above what was required to make annual bond payments. The school district put the excess funds in a separate bank account (Attachment 2).

Senator Bernt asked what this separate bank account was used for. **Mr. Stutzman** explained that the school board voted and the money was put in a bond savings account. That account could only be used to redeem bonds early when terms allowed.

TESTIMONY: **Angela Pendlebury**, CFO for Idaho Falls School District 91, stated that the levy rate was set by statute and only included payments due, so there was no way to over collect. The levy rate was calculated based on the payments coming due within the next year, in the next 21 month cycle. The levy amount was based on a projection of the tax base which was based on the value of homes for the next 21 months. The district might decide to refinance a debt if interest rates dropped and pay off a bond early. The Idaho Falls school district saved \$6.7 million by refinancing their debt.

DISCUSSION: **Senator Cook** asked whether they could have saved that amount under **S 1055**. **Ms. Pendlebury** responded that it probably would not have affected their lowering the interest rate because they would still be permitted to do that. Her concern was that shortening the length of time would decrease their ability to show that they could pay their debt and, thereby, decrease their credit rating resulting in higher interest rates.

Senator Grow asked Ms. Pendlebury to explain the adverse affects of reducing the number of bond payments they could levy in one year from 21 to 14. **Ms. Pendlebury** explained that, first, it would decrease their credit rating. Second, it would make it more difficult to make projections and ensure their ability to make payments during the ups and downs in the economy.

TESTIMONY: **Blake Snedaker**, business manager for the Madison School District, spoke in opposition to **S 1055**. He expressed concern with the fact that the fiscal year began on July 1, but the district didn't begin receiving property tax payments until December. **S 1055** reduced the amount of months of payments due they could collect in one year and made it more difficult for them to make bond payments due before December.

TESTIMONY: **Andy Grover**, Director of the Idaho Association of School Administrators, spoke in opposition to **S 1055**. He explained that if there were excess funds at the end of the year the school board could opt for a short term reduction of property taxes or do a defeasance that resulted in less short term reduction in property taxes, but an increase in total property tax reduction spread out over a longer term.

DISCUSSION: **Senator Cook** asked Mr. Grover to explain the difference between a redemption and defeasance. **Mr. Grover** explained that a redemption was payment of a bond during the last year. Under defeasance the money was put in an escrow account to pay off the bond at year 20 because you couldn't pay it off early under the terms of the bond.

Senator Grow asked whether his understanding was correct that a school district could accumulate funds and keep the levy rate the same rather than reduce the levy rate even though there was population growth that further increased their funds. **Mr. Grover** affirmed that Senator Grow's understanding was correct. **Senator Grow** asked Kelley Packer to discuss how cities determined the levy rate.

TESTIMONY: **Kelley Packer**, Director of the Idaho Association of Cities, explained that cities set their budgets, determined values and then determined the levy rate.

TESTIMONY: **Mr. Grover** stated that the choice for a school board was whether to reduce property taxes for the short term or whether to have a smaller amount of property tax relief each year, but more over an extended period of time.

TESTIMONY: **Nick Miller** of Hawley Troxell law firm explained that the use of reserve funds, as discussed by Ms. Pendlebury, to enhance your bond rating was common. **S 1055** eliminated the school's discretion and dictated that they could only collect up to 14 months of bond payments in one year. He also noted the difference in fiscal years as discussed by Mr. Snedaker. The effect of **S 1055** on the Shelley School District had it been in effect in 2022 would have been prevention from certifying bond payments in June 2022 because they had sufficient funds to make payments for the next 12 months. However, the next year, when the September 2023 payment came due, they would not have had sufficient funds to make the bond payment and would have had to borrow from the general fund and levy more the following year to repay the general fund. That could decrease their ratings with bond agencies (Attachment 3).

Mr. Miller also noted the disconnect between thinking of this issue in terms of percentages, the percentage of total debt service a school district could have in reserve, and the number of months of payment due a district could collect in one year under **S 1055**.

DISCUSSION: **Senator Grow** asked whether districts would be adversely affected under **S 1055** during that first year of reducing the amount of payments they could collect from 21 to 14, and whether the effect would be flat the second year. **Mr. Miller** responded that he wasn't certain. The district would have to forecast the levy amount in June, more than 14 months before the September payment of the following year was due. In addition, the district would be required to subtract any amount of bond funds from what they certified. The district would have certified 21 months the previous year.

Vice Chairman Schroeder asked what number of months of payments due districts could collect in one year he would suggest. **Mr. Miller** responded that 16 months would, "do no harm," but stated that would not address the policy issue of whether school districts should have a reserve of 16 months.

TESTIMONY: **Chairman Ricks** stated that Idaho gave more flexibility to school districts with respect to levies than most states. He expressed concern that no one was providing oversight regarding how much school districts were collecting. **S 1055** reduced the amount of reserve the school districts could collect in one year to 16.7 percent. The difference in fiscal years should not be a concern after the first year. In response to concerns regarding increased rates, **Chairman Ricks** noted that the bond levy equalization fund paid some of the interest on bonds.

DISCUSSION: **Senator Grow** asked what the savings to taxpayers would be under **S 1055**. Would the savings occur during the first year and then the levy amount be level thereafter. **Chairman Ricks** confirmed that was correct.

Senator Rabe asked for clarification on her understanding that under **S 1055** school districts could create a short term savings for taxpayers, but would not have the flexibility to provide more savings over the 20-year period of the bond. **Chairman Ricks** stated that was correct. **Senator Rabe** noted that she had heard testimony that under current law allowing school districts to charge 21 months of bond payments in one year they had saved \$28 million. She asked whether the school districts would lose that ability under **S 1055**. **Chairman Ricks** explained that the state bond levy equalization fund paid a portion of the interest so they were not saving the local governments interest. In addition, the school district could refinance if interest rates went down, go out for a new bond or utilize other options to save money. **Senator Rabe** stated that it was her understanding that a bond could only be refinanced once and asked whether that affected Chairman Ricks' calculations. **Chairman Ricks** replied that it did not.

Senator Cook asked whether he would consider an 18 month limit on the number of payments the school district could levy in one year. **Chairman Ricks** responded that he felt that 18 months was too long and stated that other states without this flexibility continued to obtain bonds and maintained good bond ratings. He explained that the defeasance process did not pay off the bond. The bond was sold and the school district continued to service that debt for the remainder of the term.

Senator Rabe suggested they step back, spend a year and track the movement of property tax funds. **Chairman Ricks** responded that he felt this legislation was needed now and that he was not aware of any school district defaulting on a bond.

Senator Trakel asked whether **S 1055** provided tax relief. **Chairman Ricks** replied that it provided tax relief as soon as next year.

Senator Grow suggested increasing the number of months from 14 to 15 or 16 might be a middle of the road approach.

MOTION: **Senator Trakel** moved to send **S 1055** to the floor without recommendation.

SUBSTITUTE MOTION: **Senator Grow** made a substitute motion to send **S 1055** to the 14th order of business for possible amendment. **Senator Cook** seconded the motion. The motion to send **S 1055** to the 14th order of business for possible amendment passed by **voice vote**.

PASSED THE GAVEL: Vice Chairman Schroeder passed the gavel back to Chairman Ricks.

H 89 **City Councils. Representative Cheatum** presented **H 89**. He explained that this bill was in response to a situation in Pocatello where three city council members resigned leaving them without a quorum to confirm the mayor's appointments of replacements. This left Pocatello without the ability to pay bills or do other city business. Pursuant to Idaho Code § 59-912, the mayor nominated replacements and they were appointed by the governor. **H 89** established a process whereby the mayor nominated a candidate. If the position of mayor was vacant, the city council president nominated the candidate. If both the mayor and city council president positions were vacant, the most senior city council member nominated a replacement. The nomination was then confirmed by the council. Finally, if there was not a quorum of the city council, the ranking elected official in order of the mayor, council president, senior member of the council, would nominate a candidate or candidates sufficient to establish a quorum for appointment by the governor.

DISCUSSION: **Chairman Ricks** asked for clarification that this bill only addressed city council vacancies. **Representative Cheatum** replied that was correct.

Senator Rabe asked whether the cities supported this bill. **Representative Cheatum** stated that they did.

MOTION: **Senator Cook** moved to send **H 89** to the floor with a **do pass** recommendation. **Vice Chairman Schroeder** seconded the motion. The motion to send **H 89** to the floor with a **do pass** recommendation passed by **voice vote**.

H 99 **Sales Tax. Representative Durrant** presented **H 99**. **Representative Durrant** stated that **H 99** pertained solely to revenue sharing with special purpose taxing districts and did not affect revenue sharing with cities or counties. She explained that currently property tax information was gathered on the fourth Monday in October and the sales tax distribution was calculated on October 31 of each year. This resulted in errors in calculation of foregone and other errors. **H 99** extended the date for calculation of sales tax distribution to January 31 of the following year. The distribution on October 31 would be based on the previous year's information.

DISCUSSION: **Senator Grow** asked whether the Idaho State Tax Commission had been consulted on this bill. **Senator Durrant** responded that this was an agency bill.

MOTION: **Vice Chairman Schroeder** moved to send **H 99** to the floor with a **do pass** recommendation. **Senator Rabe** seconded the motion. The motion to send **H 99** to the floor with a **do pass** recommendation passed by **voice vote**.

H 106 **Prohibitions on Utility Connections.** **Chairman Ricks** postponed consideration of **H 106** to a date to be determined.

ADJOURNED: There being no further business at this time, **Chairman Ricks** adjourned the meeting at 4:50 p.m.

Senator Ricks
Chair

Meg Lawless
Secretary