

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 23, 2017

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Johnson, Vice Chairman Bayer, Senators Hill, Siddoway, Smith(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** convened the meeting of the Local Government and Taxation Committee (Committee) to order at 3:03 p.m.

H 153 **Relating to Forest Lands Tax, Timber Valuation.** **Steve Fiscus**, Property Tax Division Administrator, Idaho State Tax Commission (Commission), presented **H 153**. This legislation extends the sunset date on the use of certain criteria regarding timber productivity valuation and forest management cost allowances, from December 31, 2016 to December 31, 2021 . **Mr. Fiscus** stated that the sunset extension is necessary to provide predictability and stability through the continuation of current methodology used to establish timber land valuations. **H 153** includes a sunset in several sections of Idaho Code § 63-1705 to occur simultaneously in 2022. Prior to that time, the Committee on Forest Land Taxation Methodologies (CFTM) will be required to meet to either extend the current approach or establish different methodologies.

Senator Hill asked what provisions would expire if the extension is not granted. **Mr. Fiscus** explained that two components of methodology used to value timber lands are being extended. He further noted that the CFTM decided to set the floor and ceiling of certain components at 2011 values to avoid continued fluctuations. **Mr. Fiscus** noted the date changes are being proposed to align all sunset dates. **Senator Hill** sought further clarification regarding the methodologies being extended. **Mr. Fiscus** specified that without the extension of certain methodologies, the valuation system defaults to the pre-existing framework and may result in significant fluctuations in values.

Senator Burgoyne asked why a sunset is necessary. **Mr. Fiscus** replied that stakeholders need stability; counties that have significant timber holdings are greatly impacted financially by fluctuations in valuations. **Mr. Fiscus** noted that there is potential for industry change in the future and as a result, the CFTM is required to meet prior to the next sunset date to determine if current methodology is still appropriate.

MOTION: **Senator Hill** moved to send **H 153** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1067

Relating to Building Codes, "Owner-Builder" Definition and Exemption. **Marc Eberlein**, Commissioner, Kootenai County, presented **S 1067**. This legislation amends sections of Idaho Code to provide a definition of "owner-builder" and provide an owner-builder exemption to the building permit process. **Mr. Eberlein** stated that current statutes regarding building codes are narrow, allowing for adoption of all or none of the statutory requirements; some Idaho counties have chosen not to adopt building codes. **Mr. Eberlein** suggested this bill provides an option for cities and counties by allowing an owner-builder to construct a home without a building permit or plan review; owner-builders will still be required to comply with statutory requirements regarding planning, zoning, and disclosure.

Senator Burgoyne asked what is accomplished by allowing local jurisdictions to grant owner-builder exemptions. **Mr. Eberlein** replied that hiring and retaining qualified building inspectors and plan reviewers is an ongoing problem, resulting in waiting periods for the issuance of building permits. **Senator Burgoyne** asked if this legislation precludes the need for building inspections and/or code requirements in jurisdictions that elect these provisions. **Mr. Eberlein** replied that the legislation does not require building inspections or adherence to building codes. **Senator Burgoyne** asked how this exemption helps owner-builders that wish to exceed code requirements, such as a heavier snow load capacity. **Mr. Eberlein** responded that the convenience for homeowners is timeliness; site permits, in lieu of building permits, may be issued within days rather than weeks.

TESTIMONY:

Patrick Sullivan, Director of Building and Safety Facilities, City of Nampa, spoke in opposition to **S 1067**. **Mr. Sullivan** stated that extra oversight is necessary to ensure that homes built by non-builders are built soundly and do not become problematic for future homeowners.

Senator Vick noted that Idaho counties are able to exempt the entire building permit process. **Mr. Sullivan** responded that it does not make sense for larger communities to build without meeting minimum code standards; he further noted that it is challenging to ensure that homes built by builders are built to minimum code standards. **Senator Vick** inquired if counties that do not require building permits have experienced subsequent problems, and **Mr. Sullivan** responded that he is not aware of any problems.

Senator Burgoyne asked **Mr. Sullivan** if builders in his jurisdiction are permitted to exceed minimum snow load requirements. **Mr. Sullivan** indicated that a builder can meet or exceed minimum code requirements but not fall short of them.

Donald Gary, testifying as a private citizen, spoke in support of **S 1067**. **Mr. Gary** emphasized that this legislation is optional and provides an alternative for local jurisdictions. He continued to make the following points: 1.) local jurisdictions adopt their own reporting methods, most of which are done electronically; 2.) it would be relatively simple to add a disclosure statement to current forms, which are regularly updated; and 3.) current building codes provide no remedy for property owners if subsequent damage results outside the period of liability, even if the property is built to code and approved by the county.

Brent Regan, Kootenai County Republican Central Committee, spoke in support of **S 1067**. **Mr. Regan** commented that this legislation gives local jurisdictions the choice of whether to adopt the owner-builder exemption and suggested that these decisions should be made at the local level.

Jan Welch, representing the Structural Engineers Association of Idaho, spoke in opposition to **S 1067**. **Ms. Welch** commented that a significant portion of the structures that were damaged due to weather conditions this past year are considered owner-builder structures and did not meet minimum snow load requirements. **Ms. Welch** expressed concerns regarding the owner-builder exemption with respect to federal emergency assistance, suggesting that federal funding would be contingent upon current building code requirements.

John Evans, representing the Association of Idaho Cities (AIC) as Legislative Chairman, spoke in opposition to **S 1067**. **Mayor Evans** stated this legislation presents a risk for home buyers, communities, and emergency response personnel. He remarked that two different classes of construction providers are created by this bill, each held to different standards. **Mayor Evans** questioned how basic safety requirements would be verified during the building process and suggested the aforementioned timeliness issue should be addressed by management at the local level.

Senator Vick asked how difficult it is for a city to hire and retain competent building inspectors. **Mayor Evans** responded that Garden City has contracted with the State to provide these services.

Senator Hill commented that this legislation appears to provide local jurisdictions with more control and asked Mayor Evans for his opinion. **Mayor Evans** replied that while he does advocate for local control, this legislation creates a double standard by holding owner-builders and contractors to different standards. Additionally, he commented that the engineering component in Idaho Code § 39-4116(4)(c) is vague and may be costly for local jurisdictions. **Senator Hill** asked if this legislation provides an incentive for a local jurisdiction currently exempted to opt-in to the building code process. **Mayor Evans** replied that there still exists a double standard for owner-builders and other construction providers.

John Eaton, representing the Idaho Association of Realtors (Realtors), spoke in opposition to **S 1067**. **Mr. Eaton** commented on the new disclosure components in Idaho Code § 55-2506, pointing out that the Realtors design forms for most of the residential transactions in Idaho. As such, there is a liability concern that the Realtors will be required to create a corresponding section requiring disclosure of the owner-builder exemption. Additionally, **Mr. Eaton** referred to new language in Idaho Code § 39-4116(4)(c) that requires local jurisdictions that opt-out to track owner-builder exemptions. He explained that because local jurisdictions do not have a tracking mechanism, it creates a new standard for the Realtors beyond their current capacity.

Senator Burgoyne asked if insurance rates will increase as a result of this legislation. **Mr. Eaton** could not provide a definitive answer.

Senator Vick commented that in his experience as a builder in Montana, a state which does not require building permits, he did not encounter issues regarding the loan process or insurance rates. **Mr. Eaton** responded that the real estate industry has brought up concerns regarding variance of property types impacting insurance rates within a local jurisdiction.

Andrew Mitzel, representing the Idaho Building Contractors Association, spoke in opposition to **S 1067**. **Mr. Mitzel** stated that exempting owner-builders from State building code requirements is problematic for the following reasons: 1.) construction using inadequate materials incapable of withstanding fire or weather incidents; 2.) builders with limited experience not being held to professional standards; 3.) higher insurance rates for all properties within a taxing district; and 4.) increased risk for emergency responders and future home buyers.

Senator Vick asked how building code requirements insured the safety of structures recently damaged by severe weather. **Mr. Mitzel** responded that although there are instances where structures built to code suffer structural damage, State building codes are designed to insure the safety of property owners.

Vice Chairman Bayer asked how this legislation will affect building professionals in general. **Mr. Mitzel** replied that he cannot speak to business practices specifically; however, holding owners-builders and contractors to the same standards is beneficial to property owners.

Brody Aston, representing the Idaho Association of Building Officials, spoke in opposition to **S 1067**. **Mr. Aston** commented that the safety of property owners, as well as emergency responders, is put at risk by this exemption. Additionally, the Idaho Survey and Rating Bureau rates local jurisdictions on the presence and enforcement of building codes, among other factors, which affects insurance rates for all property owners in that district. **Mr. Aston** outlined additional benefits of code requirements to property owners, financial institutions, and insurance companies.

Trent Wright, representing the Idaho Bankers Association (IBA), spoke in opposition to **S 1067**. **Mr. Wright** indicated that the IBA reached out to industry stakeholders and heard concerns regarding the lending process. **Mr. Wright** explained that even though local jurisdictions are able to exempt the building permit process, lenders require proof of competency from the owner-builder, an inspection of the property, and adherence to the permit process. Additionally, upon secondary sale of an owner-builder property, a lender will require an inspection and resolution of any deficiencies. **Mr. Wright** addressed the aforementioned disclosure issues, indicating that irregardless of disclosure of the owner-builder exemption, individuals seeking a traditional loan on such property will still be required to submit to the permit process by the lending institution.

Senator Patrick inquired if loans of this type can be sold to institutions such as Fannie Mae and Freddie Mac. **Mr. Wright** indicated that the IBA did reach out to such institutions but could not answer definitively as of yet.

Senator Hill asked Mr. Wright to describe the depth of these inspections. **Mr. Wright** explained that the level of inspection is dependent upon whether a property was exempted in any way; even if a local jurisdiction exempts from the permit process, an inspection is still required to report deficiencies that fall below the standard code requirements. **Senator Hill** asked what assurances a financial institution provides to a secondary buyer of an owner-builder property. **Mr. Wright** answered that unless it is a cash transaction, an inspection initiated by a lender is completed and if deficiencies are discovered, they are presented to a potential buyer prior to sale.

Senator Burgoyne asked if, during a subsequent inspection by a financial institution for lending purposes, an owner-builder property is subject to building codes that were in place during initial construction or the most current building codes. **Mr. Wright** explained that the property would be subject to the most current building code requirements. **Senator Burgoyne** then asked if the same would apply to a property built to code, and **Mr. Wright** responded that irregardless of a property being built exempt from building code requirements or not, a financial institution will still require an inspection for lending purposes to identify possible code deficiencies.

Andrew Bick, representing the Idaho State Building Code Board (Board), spoke in opposition to **S 1067**. **Mr. Bick** reported the Board opposes this legislation for the following reasons: 1.) concerns surrounding the resale of owner-builder properties; 2.) potential risk for homeowners and emergency responders; 3.) concerns regarding engineering standards and construction methods; and 4.) potential withdrawal of federal emergency funding for local jurisdictions.

Senator Nye asked if the Board contacted the Idaho Fire Chief's Association regarding this legislation, and **Mr. Bick** responded that the Board had not done so. **Senator Nye** submitted to the Committee correspondence from the Fire Chief's Association in opposition to **S 1067**.

Senator Hill inquired how many members sit on the Board and the breakdown of the vote to oppose **S 1067**. **Mr. Bick** reported that nine Board members voted unanimously to oppose this bill.

Mr. Eberlein provided closing remarks, addressing the concerns raised during testimony. **Mr. Eberlein** emphasized recent growth in Kootenai County, noting that an increase in building permits has necessitated an out-of-state contract for providers to conduct plan reviews.

MOTION:

Senator Vick moved that **S 1067** be held in Committee subject to the call of the Chair. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Johnson** adjourned the meeting at 4:45 p.m.

Senator Johnson
Chair

Jennifer Carr
Secretary