

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 15, 2022

TIME: 2:00 P.M.

PLACE: Room WW53

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

ABSENT/ EXCUSED: Senator Lakey

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 of the Senate Local Government and Taxation Committee at 2:10 pm.

MINUTES APPROVAL: **Vice Chairman Grow** moved to approve the minutes of March 3, 2022. **Senator Ricks** seconded the motion. The motion passed by **voice vote**.

H 575 **Representative Skaug** presented the bill. He explained that **H 575** would require any county lease for a jail or courthouse lasting longer than five years to have voter approval. Currently, two out of three commissioners could approve a lease for up to 30 years. He further explained that this was against the Idaho Constitution's restrictions on the accrual long term debt without voter approval. This would not take away leasing as a tool for counties to get new jails and courthouses, it would simply involve the taxpayers in that decision. Any lease beyond five years would require approval by a majority of voters.

DISCUSSION: **Chairman Rice** asked whether **H 575** was retroactive to existing leases. **Representative Skaug** replied that it was not retroactive.

TESTIMONY: **Doug Zimmer**, Nez Perce County Commissioner expressed a concern about walking away from financing and the effect on interest rates on bonds.

DISCUSSION: **Vice Chairman Grow** and **Chairman Rice** asked whether the problem Mr. Zimmer cited exists if **H 575** is not retroactive. **Mr. Zimmer** responded that counties would have expended money for resources anticipating the need for additional staffing and so forth that would be required with new buildings. **Senator Ricks** asked why not use a certificate of participation which doesn't require a vote? **Mr. Zimmer** explained that they had already had an advisory vote on the courthouse, but used a certificate of participation for the jail.

TESTIMONY: **Hubert Osborne** of Nampa, argued that a lease purchase agreement was an attempt to get around the constitutional prohibition against long term debt.

Sheriff Andy Creech, Payette County, stated that the law requires the county to provide a jail and courthouse and noted that **H 575** only applied to jails and courthouses.

Russ Hendricks, representing Idaho Farm Bureau, asserted that a long term lease is in violation of limitations on long term in Article 8, Section 3 of the Idaho Constitution. **Mr. Hendricks** stated that **H 575** was a step toward allowing the counties to incur long term debt without voter approval.

Glen Rimby expressed support for **H 575** and stated that it was not right for two commissioners to bind taxpayers to long term debt.

Don Hall, Twin Falls County Commissioner, spoke in opposition to **H 575**.

Patty Weeks, Nez Perce County auditor, relayed the experience Nez Perce County had in finding their new jail. They did a certificate of participation for the jail. Afterward several large businesses, including Walmart, left the county. The loss of revenue made it difficult to pay for the jail which resulted in them having to severely trim their budget.

Victor Rodriguez spoke in favor of the bill.

Rebecca McLaughlin, Nez Perce County Treasurer argued that indebtedness incurred for a jail or courthouse were ordinary and necessary expenses not subject to the limitations on long term indebtedness in Article 8, Section 3 of the Idaho Constitution.

MOTION: **Senator Bayer** moved to send **H 575** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion passed by **voice vote**. Senators Nye and Semmelroth are recorded as voting nay. Senator Agenbrood will carry the bill on the floor.

H 677 **Representative Addis** presented **H 677**. He stated that **H 677** protects Idaho businesses from being taxed by out of state entities for conducting sales or other business, taking place within the State of Idaho, between an Idaho business and a non-resident who is physically present within Idaho, while engaging in the business transaction. He explained that in 2019 the Oregon governor signed into law a bill that created a student success fund and levied a corporate activity tax to fund it. **Representative Addis** further explained that this tax was not an income tax or sales tax, but rather a tax for the privilege of doing business in Oregon. He asserted that the capital activity tax applied to almost all tangible property and amounted to tax without representation. **Representative Addis** read from a decision from the Idaho Attorney General stating that in the situation where an Idaho business is not doing business in Oregon, there was no reason to believe that a substantial nexus existed and, as such, Oregon's capital activity tax violated the due process and commerce clauses of the United States Constitution. **Representative Addis** stated that **H 677** would make Oregon's corporate activity tax null and void.

DISCUSSION: **Chairman Rice** noted that the corporate activity tax was different from the single factor test they saw with sales taxes between two states. He explained that this tax was a tax on Oregon businesses doing business in Oregon and, as such, in violation of Idaho's sovereignty. **Vice Chairman Grow** asked what happens if businesses don't pay these taxes. **Representative Addis** responded that a lien could be levied. **Chairman Rice** noted that the lien would have to be enforced in Idaho where it would be null and void.

MOTION: **Senator Nye** moved to send **H 677** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion passed by **voice vote**. Senator Vick will carry the bill on the floor.

ADJOURNMENT: There being no further business at this time, **Chairman Rice** adjourned the meeting at 3:12 pm.

Senator Rice
Chair

Meg Lawless
Secretary