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LAW AND POLICY

IBCA

April 9, 2010

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| <p>H0392 by Rep. Clark</p> | <p>Three recent 3-2 decisions of the Idaho Supreme Court regarding the zoning of specific parcels of property have caused much confusion with respect to the standard to be applied in reviewing such decisions on appeal. In <i>Highlands Development Corp. v. City of Boise</i>, 145 Idaho 958, 188 P.3d 900 (2008), and in <i>Burns Holdings LLC v. Madison County</i>, 147 Idaho 660, 214 P.3d 646 (2009), a majority of the Court held that such decisions were not subject to judicial review under Idaho Code § 67-6521 because they did not pertain to a "permit authorizing the development." On the other hand, in <i>Taylor v. Canyon County</i>, 147 Idaho 424, 210 P.3d 532 (2009), a different 3-2 majority found that a decision regarding a rezone with a conditional zoning development agreement pursuant to Idaho Code § 67-6511A was subject to judicial review because the development agreement was found to be a "permit authorizing the development" under Idaho Code § 67-6521. Decisions regarding changes in the zoning of particular parcels or sites are quasijudicial decisions of local governmental entities in exactly the same manner as decisions on applications for permits which directly authorize particular development. There is no rational reason why they should be treated differently, and the Idaho Supreme Court had made no such distinction for over 25 years prior to the <i>Highlands</i> decision. See <i>Burns Holdings</i>, 214 P.3d at 65-053 (J. Jones, J., dissenting); <i>Highlands Development</i>, 145 Idaho at 962, 188 P.3d at 904 (J. Jones, J., dissenting). This bill remedies the confusion arising from these decisions by expressly providing that all decisions pertaining to changes in the zoning of particular parcels or sites would be subject to judicial review by the District Court, where the standard of review set forth in Idaho Code § 67-5279 would apply as is the case with decisions to approve or deny a permit which authorizes development.</p> | <p>House Judiciary & Rules</p> | <p>H0392</p> |
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LAW AND POLICY

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| H0407a by George Bacon Dept. of Lands | Amend Idaho Code to increase the maximum rate that may be charged for processing transaction fees under the Lake Protection Act to provide for recovery of the costs to administer encroachment permitting and public trust land leasing. Chapters 12 and 13, Title 58, Idaho Code, establish state ownership of the beds of navigable waters and require the State Board of Land Commissioners to regulate, control, and permit encroachments on, in or above the beds or waters of lakes owned and controlled by the state of Idaho. The Idaho Department of Lands (IDL) is responsible for the administration of the Lake Protection Act which generally consists of reviewing encroachment applications and approving permits. Each transaction involves document review and processing, and at least one site inspection. The average cost is \$300 for single and two family dock permits, and \$550 for shoreline protection permits. Currently, the maximum fee allowed by code is capped at \$250. The proposed legislation would raise the cap for single and two family dock permits to \$500 and shoreline protection permits to \$1,000 with actual fees set by the State Board of Land Commissioners. The assessment of these user fees will address the issue of declining General Fund subsidization and allow IDL to maintain the level of service needed to continue the effectiveness of this program. | LAW | H0407 |
| H0425 by David Curtis Engineers and Land Surveyors | Title 55 Chapter 17, Idaho Code, has a number of obsolete references. This legislation will modernize the chapter. In addition, there is a need for a one zone system of coordinates, and this legislation will create that opportunity. | To Governor | H0425 |
| H0460 by Tana Cory Bureau of Occupational Licenses | The Idaho Board of Architectural Examiners is clarifying the licensure exemptions to allow for architectural services associated with a residence not exceeding 3 stories in height. | LAW | H0460 |

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LAW AND POLICY

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| H0461 by Tana Cory Bureau of Occupational Licenses | This bill allows the Chief of the Bureau of Occupational Licenses to share information and otherwise cooperate with appropriate regulatory and law enforcement agencies, such as sharing evidence of a crime obtained in conjunction with a regulatory investigation. | LAW | H0461 |
| H0474 by Steve Key Division of Building Safety | Section 54-2604, Idaho Code, defines what a plumbing system is for the purposes of all the plumbing statutes in Chapter 26. The proposed amendment would expand the definition of what a plumbing system is by specifically including water heaters and associated venting of water heaters. Plumbers are allowed by law to install water heaters, but are not allowed to install the vents associated with such, which is costly to the property owner and causes delays. HVAC contractors are allowed to install water heaters and all associated vents. Plumbing contractors historically were allowed to install water heater vents, but since the establishment of the HVAC regulatory enforcement program in 2004, have been prevented from doing so. This statutory amendment would give back to plumbers the ability to install such appliances and vents. HVAC contractors would still retain the ability to also install gas-powered water heater vents. | Law | H0474 |

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LAW AND POLICY

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| H0475 by Steve Key Division of Building Safety | Section 54-2604, Idaho Code, defines what a plumbing system is for the purposes of all the plumbing statutes in Title 54, Chapter 26, Idaho Code. The proposed amendment would enlarge the definition of what a plumbing system is by including medical gas and medical vacuum systems. Currently, the installation of medical gas systems which carry highly flammable and potentially dangerous medical gases are not included in the definition of a plumbing system; and therefore, not required to be inspected by the Division of Building Safety. With the proliferation of medical and dental facilities, it is in the best interests of the public health and safety to ensure that such systems are installed in accordance with minimum codes. Additionally, amendments to several other plumbing statutes (Sections 54-2610, 54-2617, and 54-2618, Idaho Code) would provide that licensed plumbers who install such systems demonstrate that they are minimally qualified to do so by obtaining certification through an approved course of instruction. Finally, inspectors from any enforcement jurisdiction who inspect such installations would be required to obtain certification from a recognized organization that they are qualified to inspect such installations. | House Business Committee | H0475 |
| H0476 by Steve Key Division of Building Safety | Idaho Code Section 59-1014 requires all state officers and agencies who receive any money for or on account of the state or in payment of any fee, license or tax due the state to deposit the same with the state treasurer either on a daily or weekly basis unless the state agency has been granted specific permission by the board of examiners to deposit monies at some other interval. The Division in practice deposits money receipted to the plumbing board fund on a daily basis in conformity with § 59-1014; however §54-2630, as currently written, provides for the deposit of money received pursuant to Chapter 26 on a monthly basis to the state treasurer, and conflicts with § 59-1014. | Law | H0476 |

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LAW AND POLICY

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| H0477 by Rep. Patrick | Mortgage guaranty insurance protects lenders and investors against losses arising out of borrower defaults. Current Idaho law prohibits a mortgage insurance company from writing new business if the company's risk to capital ratio exceeds 25 to 1. The current economic situation both demonstrates the value of mortgage insurance and places stress on the ability of mortgage insurance companies to continue to write new business. This legislation would provide the director of the Department of Insurance flexibility on a case-by-case basis to allow a company to exceed the surplus limitation under certain conditions. | Law | H0477 |
| H0478 by David Curtis Board of Professional Engineers and Land Surveyors | Business entities currently renew during the month of July. This creates a significant spike in the work load of the staff. This legislation would stagger the renewal cycle over the year, thus flattening the work load. There is a high likelihood that national licensing and certification examinations will be converted from paper and pencil to computer application in the near future. The current statutes are overly specific and might preclude us from utilizing computer-based exams of different duration, makeup, timing, siting, etc. This legislation would utilize more generic language to describe the exams, their duration, their frequency, their content, etc. Current law requires all final work products to be sealed, signed and dated by the professional in responsible charge. If a professional is transferred, fired, promoted, or even dies, the professional who takes over the project cannot, under current law, claim to have been in responsible charge, and thus is precluded from sealing, signing and dating the work product. This legislation will state the conditions and the requirements for taking over responsible charge of a project. Nomenclature of "curriculum" needs to be changed to "program" and nomenclature of "hearing proceedings" needs to be changed to "administrative proceedings." Current law requires applicants for assignment to the Fundamentals of Engineering or the Fundamentals of Surveying examination to have three references. Passage of the examination does not confer any practice privileges. No applicant has ever been denied assignment to the exams for lack of these references and the Deans of the Colleges of Engineering have requested that this requirement be eliminated. | Law | H0478 |

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LAW AND POLICY

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| H0489 by Rep. Labrador and Rep. Moyle | When a Local Improvement District is created by resolution, if the amount exceeds \$250,000.00, it must be approved by two-thirds majority vote of the people. | House Rev/Tax Committee | H0489 |
| H0497 by Rep. Hart | This bill would penalize Idaho employers who hire persons who are illegally in the United States. Immigration issues are rightfully the responsibility of the federal government. This legislation conforms to the federal Immigration Reform and Control Act of 1986 (IRCA) where the federal government imposes criminal and monetary penalties on employers who hire persons who are illegally in the United States. The IRCA carves out an area where the States can address this issue of illegal alien employment. Specifically the IRCA states at 8 USC 1324 (h) (2):"(2) Preemption. The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens." If enacted, this legislation will allow for Idaho employers to have their state, county or city licenses suspended for knowingly employing illegal aliens. Professional licenses are excluded from the legislation. For a first offense, a license will be suspended until the employer signs an affidavit stating that the employer will not hire an unauthorized alien in the future. If the employer signs this affidavit within three (3) days of the court ruling, no suspension of the license will take place. For a second offense in a three (3) year period, the license will be suspended for up to ten (10) days. For a third offense in a three (3) year period, the license will be suspended for up to one year. The legislation also provides a section on the Legislative Findings declaring that some Idaho employers need the federal government to provide a workable guest worker program. The legislation makes it a misdemeanor for a person to falsely impersonate another in order to seek employment. The legislation requires the state tax commission shall notify all Idaho employers who withhold pay-roll taxes of the new provisions of this legislation. | House State Affairs Committee | H0497 |

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LAW AND POLICY

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| <p>H0501 by Kerry Ellen Elliott Idaho Association of Counties</p> | <p>This legislation provides county governments with the same option cities currently have to permit and conduct electrical and plumbing inspections. Currently, all county plumbing and electrical inspections are conducted by the Division of Building Safety. With this option extended to counties, they can consider adopting an inspection program that may provide a more efficient inspection process and better utilization of inspectors. In addition, counties adopting an electrical and plumbing inspection program will have the flexibility to contract with other counties, cities, or DBS for these services. If a county chooses not to adopt an electrical or plumbing inspection program, DBS will continue permitting and inspection duties, as they are today. The legislation repeals obsolete sections, in compliance with OAG 95-1, that refer to city jurisdiction within the area of impact. The legislation does not alter or change the professional licensing process or inspector qualifications and standards that are currently in code.</p> | <p>House Business Committee</p> | <p>H0501</p> |
| <p>H0502 by Steve Keys Department of Building Safety</p> | <p>The Modular Building Advisory Board members prefer to be compensated in the form of a fifty dollar (\$50) per day honorarium in lieu of the twenty-five dollar (\$25) per day salary they currently receive to perform Board functions. Amendment to Section 39-4302, Idaho Code, would merely adopt a different paragraph of Section 59-509, Idaho Code. This change in compensation will adjust the Board members eligibility and obligations with regard to PERSI participation. It will also bring the amount of the Board members per day compensation into line with that of the other boards operating under the Division of Building Safety.</p> | <p>LAW</p> | <p>H0502</p> |
| <p>H0503 by Steve Keys Department of Building Safety</p> | <p>The administrator of the Division of Building Safety already has statutory authority to conduct examinations to ascertain the qualifications and fitness of applicants for licenses administered by the Division; However, no express authority exists which permits the administrator the authority to charge a fee for such examination. Currently, the Division contracts with a professional testing service to administer all examinations throughout the various trades and applicants pay the testing service provider the fee as established by them. DBS receives many complaints regarding the testing process and the</p> | <p>LAW</p> | <p>H0503</p> |

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LAW AND POLICY

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| | <p>poor customer service offered by the testing agencies. The Division has attempted to work through these issues, but has come to the conclusion that internal administration of examinations would be the best avenue for resolving most of the issues. Establishing express statutory authority for the administrator to impose a fee for the examination would allow the Division of Building Safety to begin the process of formulating its own examinations leading to the capability to conduct and administer examinations for all licenses administered by the Division.</p> | | |
| <p>H0504 by Steve Keys Department of Building Safety</p> | <p>The Uniform School Building Safety Act (title 39, chapter 80, Sections 39-8001 through 39-8012, Idaho Code) currently provides that in the event that the Division of Building Safety finds upon inspection an imminent safety hazard in a public school under its jurisdiction, the Department of Administration shall designate a licensed professional to independently evaluate the condition identified by the Division. If the Department of Administration agrees with the Division of Building Safety that a condition within a school building constitutes an imminent safety hazard, it shall notify the Division. Additionally, both the Department of Administration and the Division shall be provided with verification of corrective action by a school district. The proposed legislation would eliminate the Department of Administration's involvement in this process. In practice, the Division is better suited to contact an independent third party and manage the logistics of such an evaluation. The required expertise regarding building codes and related safety issues is held by the Division, and the Department's duties in these situations have merely been procedural, and/or duplicative of what the Division is already doing.</p> | <p>LAW</p> | <p>H0504</p> |
| <p>H0507 by Tana Cory Bureau of Occupational Licenses</p> | <p>The Idaho Contractors Board is clarifying whose name and address is required on the application for registration and who must disclose disciplinary action. The Board is also clarifying the discipline section to allow it to refuse to issue or renew a registration based on previous violation of a ground for discipline, and to recognize an accepted standard of care. The Board is also clarifying that disciplinary proceedings shall be conducted under Chapter 52, Title 67, Idaho Code.</p> | <p>House Business Committee</p> | <p>H0507</p> |

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LAW AND POLICY

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| <p>H536 by Rep. Luker</p> | <p>This bill amends the community infrastructure district (CID) law found at Chapter 31, Title 50, Idaho Code in the following respects:</p> <ol style="list-style-type: none"> 1. Changes the scope of improvements allowed from those that "directly or indirectly benefit the district," to those that, "primarily benefit the district"; 2. Includes growth related improvements to public schools within the definition of "community infrastructure"; 3. Eliminates addition of noncontiguous property to CID; 4. Provides for submission of written testimony prior to a hearing to create a district in addition to testimony presented at a hearing; 5. Clarifies the method for designating district manager, treasurers and clerks in CIDs containing multiple county or city jurisdictions; 6. Qualifies use of easements to the extent consistent with existing ownership rights; 7. Changes the maximum outstanding principle amount of general obligation bonds and other indebtedness allowed from 12% to 7% of the adjusted market value of taxable real property in the district; 8. Eliminates discretionary use of special assessment bonds by the district board, and limits special assessment bonds to situations where all owners of the special assessment present a petition for the special assessment; 9. Repeals Section 50-3113, allowing for an administrative expense levy; 10. Increases the appeal time for district creation or board actions from 30 to 60 days. | <p>House Local Gov/Tax Committee</p> | <p>H0536</p> |
| <p>H0549 by Rep. Rusche</p> | <p>The Idaho Small Business Incubator and Jobs Act directs the Idaho Department of Commerce to use existing resources to assist small businesses in Idaho. These existing resources include office space, conference room facilities, and shared staff. The Department will make these resources available to qualifying Idaho small business around the state with low cost, flexible lease terms. The Department is instructed to work with the Department of Labor to offer business management, financial, and planning services to qualified businesses. The department is required to set up these incubator sites by July 1, 2010.</p> | <p>House Business Committee</p> | <p>H0549</p> |

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LAW AND POLICY

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| <p>H0550 by Kris Ellis Idaho Land Title Association</p> | <p>There currently is not a grace period within which to record a Trustee's Deed after the sale date, nor is there a statutory process whereby a Trustee's Deed can be rescinded. The proposed amendment(s) allow the trustee and beneficiary to record a Trustee's Deed within 15 days after the sale date and, if done timely, the effective date of the Trustee's Deed will relate back to the date and time of the trustee's sale. As such, an intervening bankruptcy filing or other form of intervening lien would not affect title to the subject real property. The proposed amendment also would allow the Trustee and Beneficiary a statutory process whereby a Trustee's Deed could be rescinded in the event the Trustee's Sale was held in violation of a Bankruptcy Stay or otherwise in error.</p> | <p>To Governor</p> | <p>H0550</p> |
| <p>H0551 by Kris Ellis Idaho Land Title Association</p> | <p>Idaho Code 45-1506(7) presently sets forth language that is ambiguous with regard to the recording of the Affidavit of Compliance package being recorded prior to the "sale date." Namely, it is unclear whether a trustee can postpone the "sale date" until such time as the Affidavits have timely recorded or whether such practice is prohibited because "sale date" actually means the "scheduled sale date." Title insurance agents interpret the statute differently, creating a lack of uniformity. This amendment is intended to correct the ambiguity.</p> | <p>House Failed</p> | <p>H0551</p> |
| <p>H0552 by Steve Keys Division of Building Safety</p> | <p>Current HVAC statute (Section 54-5001, Idaho Code) adopts the International Mechanical Code, the International Fuel Gas Code, and Parts V and VI of the International Residential Code. The HVAC industry has expressed concern about whether the state's HVAC and mechanical regulatory and enforcement program extends to solid fuel burning and hearth-related installations. Because of the potential ambiguity about the breadth of the regulatory scheme there is concern that some solid fuel and hearth related installations are installed without inspection, and without assurances that the individuals performing the work possess the requisite skill and experience. To eliminate these concerns, the HVAC Board has determined to make it clearer that the scope of the HVAC regulatory program does extend to solid fuel burning and hearth-related installations by adopting the applicable codes which address such installation standards. The</p> | <p>House Business Committee</p> | <p>H0552</p> |

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LAW AND POLICY

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| | <p>proposed legislative amendment would continue to adopt the International Fuel Gas Code and the International Mechanical Code as the minimum standards for HVAC and mechanical installations in the state. Currently, these codes are only used as the minimum standard in commercial buildings. This legislation would make such codes applicable to installations performed in residential buildings as well. Using such codes would capture solid fuel burning and hearth-related HVAC and mechanical installations in all types of construction and eliminate the need to use the International Residential Code.</p> | | |
| <p>H0553 by Steve Keys Division of Building Safety</p> | <p>Idaho Code Section 59-1014 requires all state officers and agencies who receive any money for or on account of the state or in payment of any fee, license or tax due the state to deposit the same with the state treasurer either on a daily or weekly basis unless the state agency has been granted specific permission by the board of examiners to deposit monies at some other interval. The Division in practice deposits money receipted to the electrical board fund on a daily basis in conformity with § 59-1014; however §54-1015, as currently written, provides for the deposit of money received pursuant to Chapter 10 on a monthly basis to the state treasurer, and conflicts with § 59-1014.</p> | <p>Law</p> | <p>H0553</p> |
| <p>H0555 by Norman Semanko Idaho Water Users Association</p> | <p>This legislation clarifies that the time periods in the Idaho Administrative Procedures Act (APA) for seeking reconsideration or judicial review of an agency action begin to run when the order is served upon the parties to an agency proceeding. The need for this legislation became clear in 2009 after the Idaho Supreme Court decision in <i>Erickson v. Idaho Board of Registration Professional Engineers and Professional Land Surveyors</i>. In that case, the court held that the period for seeking judicial review begins when an order was "issued", as provided in the APA, rather than when the order was "served" on the parties, as provided in the Idaho Rules of Administrative Procedure. The court held that "issuance" under the APA does not mean or require service upon the parties. This could result in the time for seeking review beginning to run without the parties' knowledge. This legislation ensures that parties receive notice when the time for seeking review of the agency order begins.</p> | <p>To Governor</p> | <p>H0555</p> |

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LAW AND POLICY

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| H0561 by Rep. Eskridge | This legislation eliminates the charge for a dock permit required for replacement of a previously permitted dock for a single or two family home when the replacement dock is of equal or less size of the existing dock and is in the same location. | Law | H0561 |
| H0567 by Rep. Lake | This legislation is the first comprehensive statutory overhaul of chapter 20, title 50, Idaho Code, the Urban Renewal Law (the "Law") since the Law's enactment in 1965 and of chapter 29, title 50, Idaho Code, the Local Economic Development Act (the "Act") since the Act's enactment in 1988. The purpose of this legislation is to reform and modernize the Law and the Act to improve these important economic tools which allow the development of local/regional economies as well as the economy of the state as a whole. The purpose of the legislation is (1) to amend the Law and the Act to reflect primarily administrative changes to be effective immediately and will apply to all existing urban renewal agencies and urban renewal plans and (2) to combine chapters 20 and 29, title 50, Idaho Code, into one new general overview chapter, chapter 32, title 50, Idaho Code, cited as the Idaho Urban Reinvestment Act. The Idaho Urban Reinvestment Act contains two new subchapters which establish a classification system separating deteriorating area projects from those projects promoting economic, industrial, residential, and/or mixed-use development and provides guidance as to what constitutes an eligible project under each classification. These subchapters are titled "Deteriorating Area" and "Economic Development." Chapter 32, title 50, Idaho Code, will apply to urban renewal agencies and urban renewal plans formed after the effective date, and to existing plans when those plans are amended to add geographic areas, or to increase the termination date of the plan from the current termination date to the maximum termination date of twenty-four (24) years. | House Rev/Tax Committee | H0567 |
| H0569 by Rep. Hart | This legislation amends Idaho Code, Title 50, Chapters 20 and 29. The bill allows for a sixty (60) public comment and public hearing process in the application by an Urban Renewal Agency to seek approval for an Urban Renewal plan, or when an Urban Renewal plan or Competitively Disadvantaged Border Community Area seeks to create a revenue allocation | House Rev/Tax Committee | H0569 |

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LAW AND POLICY

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| | <p>area. Currently there is no process that exists in Idaho Code that allows for a public hearing process at the time of application for these entities. The bill also extends the period of time a person in interest may challenge a final determination made by the government body by the filing of a court action. The current time period for filing such a petition is thirty (30) days. This legislation extends the filing period to ninety (90) days.</p> | | |
| <p>H0570 by Steve Kren</p> | <p>This legislation is to require that a municipality shall hold an election of qualified electors in a proposed urban renewal area, providing that it should be approved by a majority of those voting upon the question, to exercise the authority of an urban renewal agency.</p> | <p>House Rev/Tax Committee</p> | <p>H0570</p> |
| <p>H0571 by Rep. Hart</p> | <p>This legislation amends Idaho Code 50-2905. The bill requires additional information to be included in the plan offered by an Urban Renewal Agency at the time the initial plan is submitted to the local governing body for the creation of a Revenue Allocation Area. The additional information pertains to the base assessment role and the total assessed value of the municipality who created the Urban Renewal Agency. The bill also allows for any taxing district, whose geographical boundaries overlap with the boundaries of a revenue allocation area, to support or decline to support the creation of a revenue allocation area by way of approving a resolution of support or disapproval. The legislation will only allow those revenue allocation areas to be created when a majority of the affected taxing districts approve the creation of the revenue allocation area.</p> | <p>House Rev/Tax Committee</p> | <p>H0571</p> |
| <p>H0572 by Rep. Hart</p> | <p>The purpose of this legislation is to update specific sections of Idaho Code that govern Idaho in the area of urban renewal. This amendment will modify Idaho Code section 50-2006 to allow for the election of urban renewal board members, terms of office, eligibility and the filling of vacancies.</p> | <p>House Rev/Tax Committee</p> | <p>H0572</p> |
| <p>H0577 by Sen. Winder, Rep. Henderson, and Rep.</p> | <p>This legislation defines the procedures to allow the Idaho Transportation Department to solicit and award contracts using design-build or construction manager/general contractor methods of procurement for highway projects. Design-build projects were authorized for public works projects in 1987 by Section 67-5711A, Idaho Code. However, Section 40-902(3), Idaho Code,</p> | <p>House Transportation Committee</p> | <p>H0577</p> |

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LAW AND POLICY

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| Moyle | specifically states that contracts for highways be "let to the lowest responsible bidder." This legislation will allow the department to solicit and award design-build or construction manager/general contractor contracts. If enacted, this legislation will allow the department to begin soliciting contracts using these alternative contracting methods for projects, which might be designed and completed faster than standard projects. Shorter project-completion times could potentially save money due to lower contractor costs and reduced effects of inflation on construction materials. | | |
| H0578 by Rep. Hart | This legislation amends Idaho Code 50-2905. The bill requires additional information to be included in the plan offered by an Urban Renewal Agency at the time the initial plan is submitted to the local governing body for the creation of a Revenue Allocation Area. The additional information pertains to the base assessment role and the total assessed value of the municipality who created the Urban Renewal Agency. The bill also allows for any taxing district, whose geographical boundaries overlap with the boundaries of a revenue allocation area to opt out of the revenue allocation area at the time the revenue allocation area is being proposed, and before the revenue allocation area is approved by the governing body. | House Rev/Tax Committee | H0578 |
| H0583a by Rep. Black | Idaho Code 40-1415 provides for the responsibilities of a single countywide highway district within cities. Idaho Code 40-1415(7) reserves to a city the right to place and maintain landscaping in the public rights of way. In addition, 40-1415(8) also reserves to a city the right to place and regulate parking meters located in public rights-of-way and keep all revenues generated from the parking meters. The purpose of this legislation is to require a city located within a single countywide highway district to expend the collected parking revenues for the placement and maintenance of landscaping in the public rights-of-way. This legislation supports the public policy that any revenue generated from a public asset should be reinvested in the public's asset. | Senate Local Gov. Committee | H0583 |

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LAW AND POLICY

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| <p>H0584 by Rep. Durst and Rep. Rusche</p> | <p>The purpose of this legislation is to create an independent public body corporate and politic to be known as the Micro Enterprise Development Authority (MEDA). The legislation specifies the authorities of the MEDA including the ability to make loans of \$35,000 or less to small businesses for creation or expansion. The legislation defines small businesses as a business with fewer than 50 employees. The MEDA is also given the authority to bond while using the state's sales tax account for underwriting purposes. The bonding authority is limited to only 2% of a three year average of the state's sales tax account. Finally, the legislation creates a job creation incentive of \$2,500 for jobs that are created and maintained for an entire year and pay at least the annual average wage as reported by the Division of Financial Management.</p> | <p>House Rev/Tax Committee</p> | <p>H0584</p> |
| <p>H0590 by Rep. Gibbs</p> | <p>The board of county commissioners of each county may issue permits for repair, replacement, or construction of residential septic systems.</p> | <p>Senate Health and Welfare Committee</p> | <p>H0590</p> |
| <p>H0597 by Rep. Rusche and Rep. Moyle</p> | <p>Small businesses account for over 80% of the jobs created in Idaho. This Act provides a \$2,000 tax credit for permanent new employees who are paid over \$35,000 per year and receive health care benefits (the qualifying employee must be employed full time for a minimum of nine months with pay equaling more than \$35,000 annually before the credit can be sought).</p> | <p>Senate Local Gov. Committee</p> | <p>H0597</p> |
| <p>H0600 by Sen. Winder</p> | <p>This legislation defines the procedures to allow the Idaho Transportation Department to solicit and award contracts using design-build or construction manager/general contractor methods of procurement for highway projects. Design-build projects were authorized for public works projects in 1987 by Section 67-5711A, Idaho Code. However, Section 40-902(3), Idaho Code, specifically states that contracts for highways be "let to the lowest responsible bidder." This legislation will allow the department to solicit and award design-build or construction manager/general contractor contracts.</p> | <p>To Governor</p> | <p>H0600</p> |

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LAW AND POLICY

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| H0605 by Rep. Clark | <p>Three recent 3-2 decisions of the Idaho Supreme Court regarding the zoning of specific parcels of property have caused much confusion with respect to the standard to be applied in reviewing such decisions on appeal. In <i>Highlands Development Corp. v. City of Boise</i>, 145 Idaho 958, 188 P.3d 900 (2009), and in <i>Burns Holdings LLC v. Madison County</i>, 146 Idaho 660, 214 P.3d 646 (2009), a majority of the Court held that such decisions were not subject to judicial review under Idaho Code §§ 67-6521 because they did not pertain to a "permit authorizing the development," under the Local Land Use Planning Act, Title 67, Chapter 65, Idaho Code (LLUPA). On the other hand, in <i>Taylor v. Canyon County</i>, 147 Idaho 424, 210 P.3d 532 (2009), a different 3-2 majority found that a decision regarding a rezone with a conditional zoning development agreement pursuant to Idaho Code § 67-6511A was subject to judicial review because the development agreement was found to be a "permit authorizing the development" under Idaho Code §§ 67-6521. decisions regarding changes in the zoning of particular parcels or sites are quasi-judicial decisions of local governmental entities in exactly the same manner as decisions on applications for permits which directly authorize particular development such as subdivisions, variances and special use permits. There is no rational reason why they should be treated differently, and the Idaho Supreme Court had made no such distinction for over 25 years prior to the <i>Highlands</i>-decision. See <i>Burns Holdings</i>, 214 P.3d at 650-53 (J. Jones, J., dissenting); <i>Highlands Development</i>, 145 Idaho at 962, 199 P.3d at 904 (J. Jones, J., dissenting). This bill remedies the confusion arising from these decisions by expressly providing that all final decisions applications for the establishment of one or more zoning districts upon annexation, changes in the zoning of specific parcels or sites, and conditional rezoning would be subject to judicial review by the District Court, where the standard of review set forth in Idaho Code §67-5279 would apply in exactly the same manner as with subdivisions, variances, special use permits, or other similar applications required or authorized under LLUPA. This bill also includes attorneys within the class of persons who may act as a hearing examiner, clarifies that all final decisions on land use applications must be accompanied by a notice of the applicant's right to request a regulatory takings analysis under section 67-8002, Idaho Code, and makes other miscellaneous technical corrections.</p> | LAW | H0605 |
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LAW AND POLICY

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| H0607 by Rep. Moyle | This legislation provides a process for initiating proceedings for annexation of territory into a fire district from an adjoining county. If certain conditions are met, an election on the question of annexation is not required. | LAW | H0607 |
| H0608a by Rep. Moyle and Rep. Thompson | This legislation removes the six month limitation from the zoning commission so that they can act upon a request for a change to the comprehensive plan at any time. | To Governor | H0608 |
| H0616 by Rep. Moyle and Rep. Labrador | When a Local Improvement District is initiated by a resolution of the council, bonds, registered warrants or interim warrants in an amount of \$500,000 or more must be approved by vote or petition. | Senate Local Gov. Committee | H0616 |
| H0619 by Rep. Crane | This proposed legislation would broaden the definition of electrical work to include the installation of information transport systems. It establishes requirements for the licensure of contractors and technicians involved in the information transport industry, and the permitting and inspection of installations. Information transport systems include communication systems which include an electronic and/or structured cabling component beyond the utility service point. Typically these systems include telephone, audiovisual, sound, public address, intercom, radio/television, antenna systems, and data communications systems. The legislation also expands the electrical board to include a seat dedicated to a representative from this industry. | House Business Committee | H0619 |
| H0626 by Joe Austin Budget and Policy Analysis | This bill appropriates \$11,395,800 to the Division of Building Safety in the Department of Self-Governing Agencies for fiscal year 2011; and limits the number of fulltime equivalent positions to 141. | Law | H0626 |
| H0645a by Rep. Roberts | This legislation amends sections of Idaho Code to revise what may be placed on the new construction roll, provides for corrections to the roll, and revises how the three percent (3%) increase in property tax budgets is calculated. | To Governor | H0645 |

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LAW AND POLICY

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| <p>H0646a by Bob Fick Idaho Dept. of Labor</p> | <p>This legislation makes two changes in the chargeability provisions of the unemployment insurance law. The first involving eligible unemployment benefit claimants who also receive workers' compensation benefits would treat workers' compensation benefits received for lost wages as earnings assessed against the calculation of the weekly unemployment benefit. The second involving laid-off workers who have entered approved training courses would relieve the chargeable employer of further responsibility for unemployment benefit payments if the employer offers the laid-off worker suitable employment and the worker turns it down because the worker wants to complete the approved training.</p> | <p>LAW</p> | <p>H0646</p> |
| <p>H0667a by Rep. Anderson</p> | <p>This amendment to Section 39-416 is an effort to bring a unified statewide plan forward in dealing with subsurface sewage systems, wastewater treatment, sewage systems and water quality issues. With seven health districts in the state of Idaho, district rules can vary widely from district to district. This bill would make all existing district rules null, void, and of no force and effect. Thereafter public health districts shall have the approval of the Board of Environmental Quality to promulgate rules relating to subsurface sewage systems, wastewater treatment, sewage systems and water quality and such rules must be approved by both houses of the legislature.</p> | <p>To Governor</p> | <p>H0667</p> |
| <p>H0672 by Urban Renewal Subcommittee</p> | <p>This legislation is a first substantial comprehensive statutory overhaul of chapters 20 through 29, Title 50, Idaho Code, the Urban Renewal Law (the "Law") since the Law's enactment in 1965. The purpose of the legislation is to amend the Law and the Urban Renewal to reflect primarily administrative changes to be effective, July 1, 2010 and for Urban Renewal Board composition effective January 1, 2011. This act will apply to all existing urban renewal agencies and urban renewal plans. It modifies chapter 20 and 29, Title 50, Idaho Code, into one new general chapter. Some of the specifics of this legislation include:</p> <ol style="list-style-type: none"> 1. Changes to the composition of the Urban Renewal Agency Board pertaining to how the commissioners are appointed, how they are removed, and how long they serve. This act puts into place requirements for conflict of | <p>House Rev/Tax Committee</p> | <p>H0672</p> |

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LAW AND POLICY

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| | <p>interest resolution and financial disclosure.</p> <p>2. Increased transparency by requiring published notice, required hearings and extended response times for the public to be engaged.</p> <p>3. Prohibition of revenue allocation area expansion, expansion of the geographic area, and an extension of the years of the urban renewal plan.</p> <p>4. Shoestring extensions will be prohibited and bare land may not be included for development without the owner’s approval.</p> <p>5. This legislation limits to 20 years an urban renewal plan and maturity of bonds (from initiation date). However, existing financial arrangements are grandfathered.</p> <p>6. Provisions to end the urban renewal plan and wind down the Urban Renewal Agency’s business, with distribution to taxing districts.</p> | | |
| H0719 by John Watts Veritas Advisors | The purpose of this legislation is to provide a twenty percent investment tax credit to taxpayers investing in infrastructure construction and structural components to build real property, facilities, plants and tangible projects. A taxpayer claiming this credit is not eligible for the investment tax credit at 63-4403. Investment credits can be only fifty percent of the taxpayer’s tax liability and can be carried forward for seven years. There is a recapture period and the effective date is January 1, 2011 and sunsets in five years January 1, 2016. | House Rev/Tax | H0719 |
| HJM011 by Rep. Anderson and Rep. Eskridge | This memorial would direct a message from the Idaho Legislature to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States, concerning our opposition to a Cap and Trade system of taxation on Idaho citizens. | Senate Adopted | HJM011 |
| S1271 by Sen. McGee | This legislation prohibits the manufacturing of false identification and the use of false identification by all persons to obtain employment and provides criminal sanctions for employers who knowingly employ persons using false identification. | Senate State Affairs | S1271 |

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LAW AND POLICY

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| S1273 by Sen. Kelly | The Grow Green Idaho Jobs Act accelerates job creation in the renewable energy sector by ensuring that state and local units of government expedite permitting for renewable energy projects. Public involvement is maintained to ensure stakeholder participation of in the evaluation of projects. Jobs: This legislation will create up to 300 new Idaho jobs in the first year. | Senate State Affairs Committee | S1273 |
| S1279 by Sen. Werk | The Idaho Small Business Opportunity and Jobs Act gives Idaho-based businesses increased opportunities to win state and local government contracts. The act provides a preference for Idaho-based businesses and Idaho materials in state and local government contracts of less than \$5 million by allowing governmental entities to select Idaho-based businesses and materials over out-of-state competitors as long as the Idaho-based businesses bid is no more than 5% higher than the out of state bid. The act includes an emergency clause to quickly enhance the prospects of Idaho businesses. Jobs: Up to 500 new jobs in the first year. | Senate Commerce and Human Resources Committee | S1279 |
| S1287 by Sen. Corder | This legislation corrects a 2002 oversight and allows Homeowners Associations five days rather than 24 hours to deliver a recorded lien to the land owner. In 2002 SB 1326 added a new chapter to Idaho Code. Idaho Code § 45-810 became the authorization for Homeowners Associations to file liens on accounts in default. The 24 hour period was consistent with existing I.C. § 45-507 regarding mechanics liens. Later in the 2002 session SB 1454 was introduced that amended I.C. § 45-507 (5) changing the 24 hour time period to five days. The amendment was never effected on the Homeowners Association statute. | Law | S1287 |
| S1303 by Sen. Jorgenson | This bill would prohibit Idaho employers from hiring persons who are illegally in the United States. Immigration issues are rightfully the responsibility of the federal government. This legislation conforms with the federal Immigration Reform and Control Act of 1986 (IRCA) where the federal government provides criminal and monetary penalties to employers for hiring persons who are illegally in the United States. The IRCA carves | Senate State Affairs Committee | S1303 |

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LAW AND POLICY

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| | <p>out an area where the States can address this issue of illegal alien employment. Specifically the IRCA states at 8 USC 1324 (h)(2):</p> <p>"(2) Preemption. The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens."</p> <p>If enacted, this legislation will allow for Idaho employers to be fined and have their state, county or city licenses suspended for knowingly employing illegal aliens. Professional licenses are excluded from the legislation. If a court determines that an employer has knowingly misclassified a worker as legal, the court shall enter a judgment in favor of the state in the amount of \$50.00 per day per misclassified employee up to a maximum of \$50,000.00. In addition, for a first offense of knowingly violating this legislation, as established by a court, a license will be suspended for 15 days. For a second offense the license will be suspended for one year (1) year. For a third offense the license will be permanently revoked. This legislation provides that the state tax commission shall notify all Idaho employers who withhold taxes of the new provisions of this legislation.</p> <p>This legislation defines, prohibits and classifies as a felony the trafficking and harboring of illegal aliens by individuals and employers, the penalties of which range from a fine of \$1,000.00 and 1 year imprisonment to twenty years imprisonment where the crime causes serious bodily injury or placed the life of any person in jeopardy. It also prohibits the issuance of a driver's license to an illegal alien who has been issued a driver's license from another state, nor provides for the honoring of a drivers license issued to an illegal alien by another state. This legislation also would compel the written portion of the test required to obtain an Idaho state drivers license to be administered solely in the English language without benefit of translators. This legislation makes the E Verify online computer program operated by the Department of Homeland Security mandatory for use by all Idaho employers during the hiring process of all new employees. The legislation defines a "Sanctuary City" as a city that does not enforce the provisions of this legislation. Any city determined to be a "Sanctuary City" will be ineligible to receive moneys provided through grants administered by the state.</p> | | |
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LAW AND POLICY

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| S1324 by Sen. Goedde | Recently, in a contested award of a construction contract, it became evident that Idaho code was not consistent in two sections concerning subcontractors. Idaho code section 67-2310 is being changed to include language found in section 54-1902(4) that exempts contractor licensure requirements at the time of bid for projects financed with federal aid. | LAW | S1324 |
| S1325 by Sen. Bair | This legislation would provide a statewide exemption from the water supply and access requirements established by the International Fire Code concerning detached single-family dwellings. The exemption would apply to single-family homes built in unincorporated regions outside of agreed upon areas of city impact on parcels of five (5) acres or more, unless a county subdivision or land use ordinance requires otherwise. Additionally, each county would be authorized to broaden the exemption by reducing the minimum parcel area that could qualify for the exemption. Any local option reduction may be accomplished by ordinance following a public hearing including prior notice to all fire agencies serving affected areas in the county. Note: Water supply and access standards are the only provisions of the International Fire Code applicable to the construction of single-family dwellings. | LAW | S1325 |
| S1347 by Stan Boyd Boyd and Associates | The purpose of this proposed legislation is to provide that Idaho Minimum wage law exemptions shall conform to and track with federal minimum wage law exemptions. The proposed legislation further provides an exemption from application of minimum wage law to certain establishments, camps and educational conference centers. | House General Order | S1347 |
| S1377 by Sen. Geddes | This legislation updates language that was originally adopted from California statutes in 1913 with only slight revisions in the mid 1970's. If adopted, this will bring Idaho to a more common schedule with respect to our neighboring states regarding the time frame that the Idaho Public Utilities Commission is allowed to determine a new tariff or rate. A six (6) month period is the standard that is currently allowed for discovery, evaluation, and suspension in Idaho. Similar statutes in our neighboring | Senate State Affairs Committee | S1377 |

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LAW AND POLICY

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| | <p>states, which are served by common utilities are as follows: The noted change allows Idaho to benefit if determined necessary from the efforts of other states being served by common utility providers by a longer time period, eight (8) months, to determine all relative factors involved in a rate case filing. This legislation also combines the intent of I.C. 62622 and I.C. 62623, thus eliminating the need for one of these code sections. As a result I.C. 62623 will be eliminated. Utah 8 Months The commission shall approve or deny the application under this section within 240 days (8 months) after it is filed. If the commission has not acted on an application within 240 days, the application is considered granted. Wyoming 9 Months plus 1 month review period (Title 37) Whenever there is filed with the commission by any public utility any application or tariff proposing a new rate or rates, the commission may, either upon complaint or upon its own initiative, initiate an investigation, hearing, or both, concerning the lawfulness of such rate or rates. Pending its decision thereon, the commission may suspend such rate or rates, before they become effective but not for a longer initial period than six (6) months beyond the time when such rate or rates would otherwise go into effect. If the commission shall thereafter find that a longer time will be required, the commission may extend the period of suspension for an additional period or periods not exceeding in the aggregate, three (3) months. Oregon 10 Months (ORS 757.215) The commission shall issue a written order with findings on the evidentiary record developed in the proceeding. A filing made under this subsection is subject to the commissions authority under ORS 757.215 to suspend a rate, or schedule of rates, for investigation. The total suspension period in Oregon is 10 months; 30 days plus 6 months and an additional 3 months.</p> | | |
| <p>S1380 by Sen. McGee</p> | <p>The purpose of this legislation to give a public housing provider the tools to evict a tenant for cause when the tenant, guest or family member violates the public housing provider’s requirement to maintain the public housing premises in a decent, safe and sanitary condition. Under this legislation, any tenant may be evicted who is a health and safety risk to other tenants residing in the immediate vicinity, commits a crime or knowingly provides the public housing owner with false information as described in the</p> | <p>Senate Commerce and Human Resources Committee</p> | <p>S1380</p> |

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LAW AND POLICY

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| | legislation. This legislation also outlines jurisdiction for cases of violation of this legislation and provides a statute of limitations. This legislation will not prevent local entities from pursuing and enforcing ordinances or resolutions consistent with public housing regulations. | | |
| S1381 by Sen. Winder | To allow the Legislature to review and discuss in a manner, established by Senate and House leadership, the sales tax exemptions currently in Idaho Code and to provide for a five year sunset of any new exemptions enacted after July 1, 2010. | House Rev/Tax Committee | S1381 |
| S1401a by Sen. Darrington and Rep. Black | Idaho Code 67-5711C currently allows state public works to award contracts to the lowest responsive and responsible bidder. To ensure a responsible bidder on certain projects, a "prequalification" process is sometimes used. Modeled after the Utah and Florida laws, this legislation is designed to augment those responsibility standards for bidders on state projects when the relevant agency so requests. All responsibility standards used for prequalification must be set forth so that all contractors know what the criteria will be. The additional standards set forth were taken from the standards currently in use in Utah and Florida. It is expected that the relevant agency responsible for the project will set up a review panel of experts to evaluate the compliance with the standards. This bill also gives the respective state entity responsible for the ultimate use of the project the ability to require prequalification of bidders when deemed in the best interests of the state. The overall purpose is to enhance the quality of work performed throughout the state and ensure that the state is receiving the overall best value for its expenditures. | To Governor | PDFs: S1401 |

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LAW AND POLICY

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| <p>S1403a by Sen. Smyser</p> | <p>Sections 31-1409 and 31-1410 are set forth below to show that those sections, as currently written, cover the concerns of deleting the suggested portions of 31-1408, 31-1409 provides that the county commissioners will "divide the District into three sub-districts, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners sub-districts one, two and three and not more than one of said commissioners shall be an elector of the same fire protection Sub-district". Accordingly, if a significant portion of a fire district is located in another county, it seems only fair that the electors of the sub-district that is located in two counties should be able to decide who in their sub-district (regardless of which county he/she resides in) should represent the residents of that sub-district. Thereafter, 31-1410 provides that the fire district commissioners will thereafter periodically adjust the boundaries of each sub-district for fair representation and will then conduct elections for the sub-district commissioners. The section allows the fire commissioners to even enlarge the number of sub-districts from three to five sub-districts. The purpose for the language change in the first sentence of 31-1408 (2) is that not all fire districts hold monthly meetings, or hold a meeting in January. The compromise proposed is that even for those districts that only meet quarterly, they should hold a meeting in January following an election in order to swear in their officers and commissioners. However, the meeting may need to be scheduled later in the month for some districts, and that contingency has also been taken care of in the proposed changes. The purpose in striking the portions of the second sentence in 31-1408 (2) is Idaho State Fire Commission Association (ISFCA) wants to be sure that fire commissioners can only opt to take the oath before a different officer and at a different time than what is proscribed, if the fire commissioner-elect has an actual inability to attend the January board meeting following the election.</p> | <p>To Governor</p> | <p>S1403</p> |
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LAW AND POLICY

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| S1407a by Sen. Bair | <p>The purpose of this legislation is to establish a fund in the State Treasury to facilitate implementation of Phase I of the Eastern Snake Plain Aquifer (ESPA) Comprehensive Aquifer Management Plan (CAMP), which was adopted by the Idaho Water Resource Board as a component of the Comprehensive State Water Plan and approved by House Bill No. 264 of the 2009 legislative session. The ESPA CAMP establishes a program for managing water supply and demand in the ESPA and sets a goal of achieving an incremental net change to the ESPA water budget of 200,000 to 300,000 acre-feet over the next ten years, and 600,000 acre-feet by the year 2030. The funding goals for Phase I of the ESPA CAMP call for funding participation from water users contingent upon a percentage of total funds being contributed by the state. This legislation specifically recognizes and allows for voluntary contributions from water users to provide a portion of the funds necessary to implement Phase I of the ESPA CAMP. This legislation amends section 42-1780, Idaho Code, to create the Secondary Aquifer Planning, Management and Implementation Fund to be referred to as the Secondary Fund. The Secondary Fund shall consist of moneys appropriated to the fund, moneys contributed by water users directly or through water delivery entities or districts having authority to contribute, or through contributions, gifts or grants from any other source. The legislation provides that all moneys in the fund shall be used for the purposes for which the moneys were provided. The legislation provides that all moneys in the fund are appropriated continuously to the Water Resource Board for technical studies, facilitation services, hydrologic monitoring, measurement and comprehensive plan development as well as for personnel costs, operating expenditures, capital outlay and water projects. The moneys in the Secondary Fund shall not be subject to the provisions of the standard appropriations act of 1945 or the provisions of section 67-3516, Idaho Code. The legislation provides that the State Treasurer shall invest the idle moneys in the Secondary Fund, and the interest earned on such investments shall be retained by the fund.</p> | To Governor | S1407 |
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LAW AND POLICY

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| S1427 by Keith Bybee Budget Policy and Analysis | This bill provides \$12,000,000 of bonding authority for the issuance of Grant Anticipation Revenue Vehicle (GARVEE) bonds to finance highway transportation projects listed in Section 40-315, Idaho Code. Intent language directs that neither the Transportation Board nor the Transportation Department increase the size or scope of the projects listed in Section 40-315, Idaho Code, nor add additional projects. Intent language also directs any agreement governing program management services be fully transparent to the public and Legislature and shall endeavor to negotiate the best rates for services. Intent language also provides that bonds be issued upon an approved resolution by the Transportation Board requesting the Idaho Housing and Finance Association to issue the bonds in necessary amounts. Further, it is legislative intent that the bonds be issued on an "as needed" basis as determined by the Transportation Board. Other intent sections provide that bond revenue be expended in a priority manner with the first priority being given to right-of-way acquisition, followed in order of priority by construction, and then other necessary project-related costs. Legislative intent also provides that, to the extent feasible and practical, the Transportation Department perform project-related work within the Department itself. Legislative intent provides for a report from the Transportation Board to the Legislature concerning GARVEE projects, with such report being submitted by September 30. | To Governor | S1427 |
| SCR119 by Sen. LeFavour | This concurrent resolution would reject an entire docket of a pending rule of the Division of Building Safety relating to Rules of Building Safety. The effect of this resolution, if adopted by both houses, would be to prevent the agency rulemaking contained in that docket from going into effect. | Adopted | SCR119 |
| SCR120 by Sen. Stegner | This concurrent resolution would reject an entire docket of a pending rule of the Division of Building Safety relating to Rules Governing Plumbing Safety Licensing. The effect of this resolution, if adopted by both houses, would be to prevent the agency rulemaking contained in that docket from going into effect. | Adopted | SCR120 |