

IDAHO STATE TAX COMMISSION

COMMISSIONERS' SPECIAL BUSINESS MEETING MINUTES OF MEETING MAY 8, 2023

This meeting was open to the public; however, everyone was encouraged to attend by telephone.

In attendance: Chairman Jeff McCray, Commissioner Jared Zwycart, Commissioner Janet Moyle; Commissioner Tom Katsilometes joined by phone.

Public Session

Chairman McCray called the meeting to order and welcomed all those in attendance, acknowledging there are several in the room, and many online. This meeting is convened for the sole purpose of the Commission's consideration of Resolution 23-02: Property Tax Temporary Rule.

Business requiring a vote of the Commission.

Resolution 23-02: Property Tax Temporary Rule

George Brown, Property Tax Division Administrator, was recognized to present the Resolution. Mr. Brown noted Resolution 23-02 is an update of Resolution 23-01 heard by the Commission on April 25, 2023. He highlighted the discussions that have taken place since the last meeting and the changes that were made as a result.

After the Business Meeting held April 25th, the Property Tax Division contacted the Legislative Services Office (LSO) and legislative leadership to answer questions about this administrative rule. The Property Tax Division had incorrectly interpreted a portion of House Bill 292. Kathlynn Ireland, Property Tax Policy Specialist completed this draft with the help of the LSO attorney, and they made sure that the intent is solidified in this Rule. Other than that, the rule is unchanged from what was presented last time. He believes the rule, as it is now, is a proper interpretation of House Bill 292. He also believes that what is in this rule is necessary for proper administration both by the state Tax Commission and at the County level. As heard at the last meeting, they had extensive discussions with counties before promulgating this rule about what was needed to give them direction in that budget and levy process. This draft has also been shared with the counties prior to this meeting, and there are representatives of that community here today. Mr. Brown believes there is now a consensus that the rule is acceptable to all interested parties, at this point.

Commissioner Moyle was recognized and said while others have seen this Temporary Rule and discussed it, the Commissioners have not. She asked what we're asking the counties to do? She said it looks exactly like all we're asking them to do is to fill out forms that are already prescribed in statute, that are already being filled out, only now we're requesting extra information. Her question is, for sections 2 and 3, is it really needed? Do we need all this language to have them fill out a form they're already filling out, and all we're doing is adding sections "per the statute" that is needed. In section a., what are we actually defining there? Are there words that are needed that are being changed? Because if it's not, why do we need this portion when it's already defined within [Idaho Code section] 63-701? She thinks there are too many words.

Mr. Brown said every one of these sections and subsections is answering a specific question the law did not answer. They received very general instructions with House Bill 292, but it had no dates, and nothing about the certification process. They added, both because they felt it necessary and because of requests of the county officials to tell them when they need to do this. That's what they've done. The Property Tax Division translated the terms they knew the crafters of the legislation were referring to for conformity. The biggest role of the Tax Commission is to ensure all counties process everything in a uniform manner with no questions. They identified a roll, and when it's needed, which is in August. That will be the preliminary roll and will have the market value of the homestead exemption, and the net value for the portion of each homestead. Idaho Code 63-701 defines what a "homestead" is. We're saying that we need the net taxable value of that because that wasn't directly in the statute.

In going through the remainder of the Rule, they included a cutoff date because to administer something like this, much like taxation is administered with a lien date of January 1st they must draw a line. They picked the second Monday in July because that is the most logical date based on the budget process. They've defined the parts of code that identify the types of properties being discussed which determine eligibility. There is a system, but the local governments must be told which parts are included.

Commissioner Moyle said there is a process in place, and they're already submitting information, but she asked how they send us that information now? Is it on a form? Mr. Brown said the rolls we receive in the abstract process and in the normal budget and levy process don't have the same timing as this law. We must identify when we need the information. We will receive information at different time, and we will receive large pieces of information from which we must pick out specific parts for this program. Commissioner Moyle asked how the old information is received? Mr. Brown said for the budget side, we have the L2 form. For the other side, we pull that information ourselves. Commissioner Moyle said all we're asking them to do, then, is fill out different information on the L2 form, which is a form we send them? Mr. Brown said no, this is a new document being produced. He isn't sure "form" is the correct word because its information gathered at a certain time of the year that is forwarded to the Tax Commission.

Commissioner Katsilometes was recognized and said this is a good presentation and a good question from Commissioner Moyle, but he thinks Mr. Brown has answered the question. We are trying to establish uniformity with the counties, and this helps us. It's more verbiage, but it's good to have the detail for the counties. He believes it's more of a uniformity thing for us to be able to administer the property tax.

Commissioner Moyle said we have all these words, when all the temporary rule needs to say is what we are asking the counties to do. Frankly, all we're asking the counties to do is submit information on something we haven't decided on, so if we haven't decided on how they're giving us the information, why are we considering a temporary rule? Why doesn't the rule simply state that they must complete the forms as prescribed by the state Tax Commission? She agrees they need guidance, but for the temporary rule process, she isn't sure we need a two-page rule when all we're asking for is for a form to be filled out. Mr. Brown said they're not filling out a form. A roll is just a list of properties and attributes. We're asking for a list of properties with certain attributes. Do we receive lists of those properties otherwise? Most of it, yes. All we're doing here is adding certain attributes onto that so that we can manage the guidance in House Bill 292 appropriately and uniformly. This rule defines what we need and when we need it. It's important because we're adding dates, and important information that isn't expressly in statute. That's what rules are for, to interpret statute in a manner that is administrable and legal under statute. That's what we've done. If a county clerk reads the statute, they will not know what must be submitted to the Tax Commission, nor when. This rule defines that.

Commissioner Zwycart said he read through the new statutes created by House Bill 292. The dates in this rule are not in the statute. He believes the counties need this guidance from the Tax Commission. Commissioner Moyle said her point is that the guidance can be provided on a form we send to the counties, and she asked if we need a temporary rule. She believes that parts are needed, but there are parts that can be taken out. She still isn't sure what we need the counties to do. What are we asking them to do and how do they need to do it? If it's guidance, it needs to be on a form and not in the form of a temporary rule. Chairman McCray noted that Mr. Brown has detailed the process used to develop the temporary rule. Mr. Brown said they're asking for information to be added to rolls that are provided the Tax Commission during the normal procedures, and what that information is. The Tax Commission doesn't have parcel-level data. The counties must determine what is on the roll, and to do that, must determine what is legally included in each section. This rule defines what that is and when it must be done. He doesn't know of a form, other than the L2 form associated with the budget and levy process that is completed later in the year. A roll is just a list of property. All this drives programming. When we ask for information on a roll, the roll is generated through a computer program. Assessors, clerks, and treasurers use that to identify all the information on the rolls and they need to know what calculation, or information, they need to get the right information on the roll. Chairman McCray asked where forms fall in relation to rules, legally. Brett Jarvis, Deputy Attorney General assigned to the Tax Commission, was recognized and said there is new

legislation that he is currently still digesting that reduces the legal efficacy of agency guidance and forms. Anything short of a rule, like an interpretation decided in a contested case, carries much less weight than a rule. There is a need for this to be laid out in rule to give legal force to it to require the counties to provide the information the Tax Commission needs in order to complete this formula.

Commissioner Zwygart asked Commissioner Moyle if there were counties that contacted her indicating this would not help them. He's had two contact him saying that it would help them. Commissioner Moyle said no. And she isn't saying they don't need it. What she is saying is what are we asking them to do? Are we providing them the guidance they need. We're asking for consistency for a roll and there aren't any forms. Are we providing the information necessary to get the consistency we really want for the counties? Are we being specific with what we're asking them to do and ensuring we're getting the uniformity out of what we're asking. Mr. Brown said we're telling them in this rule.

Commissioner Katsilometes said the counties need this to stay in conformity with every other county in the state. He believes it is needed as it is written. He believes this has been a good discussion, but the counties need to get moving. They are very concerned about the dates, and we need to move ahead with this clarification. Given that, **Commissioner Katsilometes motioned to approve Resolution 23-02: Property Tax Temporary Rule. Commissioner Zwygart seconded the motion.** Commissioner Moyle continued discussion asking why we need the language about urban renewal districts. Mr. Brown said House Bill 292 says nothing about urban renewal. There are urban renewal laws affected, but they're not directly pointed out in [House Bill] 292. It wasn't anticipated by the legislature, understandably because this is a 20-page bill that effects hundreds of pages of other statutes. This is one of those areas. This rule clarifies that urban renewal is distributed in the same manner.

Chairman McCray conducted a roll call vote: Commissioner Katsilometes: Yes; Commissioner Zwygart: Yes; Commissioner Moyle: Yes; Chairman McCray also voted aye. Resolution 23-02: Property Tax Temporary Rule is approved.

Chairman McCray thanked everyone attending and he appreciates the input received and the discussion that occurred.

There being no further business, Chairman McCray adjourned the meeting.

Maria Young, Secretary

Jeff McCray, Chairman