

Lewiston Tribune, Wednesday, March 17, 2010 — by William Spence (2 pages)

Senate agrees to put 3 constitutional amendments on ballot

Issues deal with indebtedness of some hospitals, airports, utilities

BOISE - The long dance between David Frazier and Idaho's public entities continued Tuesday, when the Senate agreed to put three new constitutional amendments on the November ballot. All three amendments deal with public oversight and the indebtedness of municipal or county-owned hospitals, airports and utilities.

Frazier, a self-described "63-year-old fat, bald, photographer-blogger" from Boise, didn't seek any of the amendments - in fact, he actively opposes two of them. Rather, his role in their genesis stems from a 2006 lawsuit ruling.

"The city said it was going to build a \$30 million parking garage at the Boise Airport. It was a five-story garage, and two stories were supposed to be occupied by rental car agencies," recalled Frazier, a former newspaper photographer whose father and grandfather were both in the news business.

The bonds needed to finance construction of the garage would be paid off using parking fees and other airport revenues. No taxpayer dollars were involved and taxpayers were not at risk in the event of a default.

Nevertheless, when the city decided not to seek a public vote on the project, Frazier sued. He lost in District Court, but the Idaho Supreme Court later agreed that the state constitution requires public entities to get two-thirds voter approval before incurring long-term debt, even when taxpayer dollars aren't at stake.

"I don't have a problem with whatever the airport wants to do, as long as it's with a vote of the people," Frazier said. "If people have a fair conception of what they're voting for and they approve it, then go for it."

The ruling cast doubt on a number of common practices. County hospitals, for example, previously hadn't sought a public vote when they financed the purchase of new equipment with long-term leases or debt. The Frazier decision put the legality of that into question; several hospitals subsequently placed expansion plans and major purchases on hold, while others converted to private, nonprofit facilities.

Similarly, municipal electrical utilities had previously entered into long-term power supply contracts. The 2006 court ruling raised doubts about that, even though customer rates financed the agreements instead of tax payments.

The constitutional amendments are intended to address these uncertainties. Two of them would allow publicly owned hospitals and airports to incur long-term debt without voter approval, but only if no taxpayer dollars are used to pay back the debt. The third would allow city-owned electrical utilities to enter into long-term power contracts without public approval.

Ballot 1

Lewiston Sen. Joe Stegner, who played a lead role in crafting the legislation, noted port districts and other public entities already have this freedom.

"Fundamentally, if taxpayers aren't at risk, why wouldn't you allow them (public entities) to move forward without a vote?" he asked Tuesday.

Other lawmakers agreed. The amendment resolutions sailed through the House and Senate with almost no opposition; they do not need to be signed by the governor. A simple majority will be needed to approve the amendments come November.

Even if taxpayer dollars aren't directly at stake, however, Frazier said eliminating public oversight has tax implications. For example, he cited one county hospital that built an office building for doctors. That put the hospital in direct competition with private sector landlords. Moreover, because it was owned by a public entity, the building wasn't taxable (although the hospital did agree to a voluntary payment in lieu of taxes).

Proponents of the constitutional amendments are being "deceptive" in the way they present the issue, Frazier said. They talk about the things hospitals and airports need to do, rather than point out that public oversight would be eliminated.

"It isn't (that public entities) can't do something," Frazier said. "It's that they can't do it without a vote. Approving these amendments will take away a right you enjoy. Voters will be disenfranchised, ascent will be eliminated - but they don't say that."