

**CHAPTER 21
REGIONAL TRANSPORTATION AUTHORITIES**

40-2101. TITLE. This chapter may be known and cited as the “Regional Transportation Authority Act”.

40-2102. DEFINITIONS.

(1) “Authority” means a regional transportation authority created pursuant to this chapter.

(2) “Board” means the governing body of the authority.

(3) “City” means an incorporated city of this state.

(4) “Commission” means the board of county commissioners.

(5) “County” means a county of this state.

(6) “Funding” means the act of providing money pursuant to this chapter to pay the costs of any highway or public transportation systems, which costs may include, without limitation, the costs of planning, financing, construction, operation or maintenance related to any highway or public transportation systems.

(7) “Highway” means the same as defined in section 40-109, Idaho Code.

(8) “Highway district commission” means the board of commissioners of a single county-wide highway district or in counties with more than one (1) highway district, the board of commissioners of each highway district within the county.

(9) “Highway system” means, collectively, a “city highway system” as defined in section 40-104, Idaho Code; a “county highway system” as defined in section 40-104, Idaho Code; a “highway district system” as defined in section 40-109, Idaho Code; and a “state highway system” as defined in section 40-120, Idaho Code.

(10) “Plan” means the regional transportation funding plan adopted by the board and approved by the electors of a region for the funding of highway or public transportation systems within a region from local option sales and use tax revenues.

(11) “Project” means all or a portion of any highway or public transportation systems to receive funding pursuant to a plan.

(12) “Public transportation service” means, without limitation, fixed transit routes; scheduled or unscheduled transit service provided by motor vehicle, bus, rail, van, aerial tramway and other modes of public conveyance; paratransit service for the elderly and disabled; shuttle and commuter service between cities, counties, health care facilities, employment centers, educational institutions or park-and-ride locations; subscription van and carpooling service; and transportation services unique to social service programs.

(13) “Public transportation system” means any property, improvement, system or service for public conveyance by any means. The term includes, without limitation, any public transportation service; any financing, construction, operation or maintenance related to any public transportation system; and any real or personal property, or interest therein, that is related to any public transportation system. The term may further include, without limitation, bus systems; railroad, rail or rail corridor systems; trolley circulator systems; aerial tramway systems; other mass transit systems; park-and-ride facilities; fare collection facilities; service areas; administrative or maintenance facilities; and, as related

1 to any of the foregoing, grounds and landscaping, paving, grading, curbs, gutters,
 2 culverts, drainage facilities, sidewalks, bikeways, pathways, bridges, overpasses,
 3 underpasses, crossroads, parkways, lighting, transit shelters, bus stops, benches, waste
 4 receptacles, kiosks, and any signs, displays, posters or other messages used to advertise a
 5 product or service or other message and located on a public transportation system.

6 (14) "Region" means the geographical area encompassed by an authority, which
 7 may only be comprised of all of a single county, or all of two or more contiguous
 8 counties.

9 (15) "Revenues" means revenues obtained from a tax created pursuant to this
 10 chapter, including, without limitation, fares, fees, rates, charges, assessments, taxes
 11 (including from a tax created pursuant to this chapter), grants, contributions, or other
 12 income and revenues available to the authority.

13 (16) "State highway account" means the account created pursuant to section 40-
 14 702, Idaho Code.

15 (17) "Tax" means a local option sales and use tax created pursuant to this
 16 chapter.

17
 18 **40-2103. PURPOSE.** The purpose of this chapter is to provide coordinated
 19 planning for highway and public transportation systems on a regional basis and to
 20 authorize local choice with respect to a tax as an additional source of monies and funding
 21 for highway and public transportation systems in Idaho.

22
 23 **40-2104. ESTABLISHMENT - GOVERNANCE.**

24 (1) One or more commissions by resolution may create an authority to carry out
 25 the purposes of this chapter. The entire geographical area of at least one (1) county or
 26 counties must be included within the region of an authority created pursuant to this
 27 chapter. An authority is deemed created when a resolution has been adopted by the
 28 commission or commissions.

29 (2) An additional county or counties, or designated parts thereof, contiguous to
 30 the region of any previously created authority may be included in the region of such
 31 authority (i) by resolution adopted by the commission or commissions of the county or
 32 counties seeking to be included, and (ii) by resolution adopted by the existing board.

33 (3) All regional public transportation authorities created pursuant to the
 34 predecessor to this chapter and in existence on July 1, 2008, shall remain in existence and
 35 continue to operate as regional transportation authorities pursuant to the provisions of this
 36 chapter.

37 (4) Nothing in this chapter shall infer or be interpreted as creating in an authority
 38 any power or duty to own, operate, maintain or construct any highway system.

39
 40 **40-2105. COMPOSITION OF BOARD.**

41 (1) Each authority shall have a board composed of the following voting
 42 members: one (1) member who is a commissioner representing the commission of each
 43 county in the region; one (1) member who is a mayor or city council member
 44 representing each city in the region; one (1) member who is a highway district

1 commissioner of any county-wide highway district in the region; one (1) member who is
 2 a highway district commissioner representing all highway district commissions in any
 3 county in the region that has more than a single highway district; and one (1) member
 4 who is from the Idaho transportation department and is appointed by the Idaho
 5 transportation board.

6 (2) Board members shall be appointed by resolution of the appointing agency and
 7 shall serve at the pleasure of the appointing agency.

8 (3) The board shall appoint a chairman and a vice-chairman from among its
 9 voting membership.

10 (4) A majority of the voting members shall constitute a quorum for the
 11 transaction of business.

12 (5) Decisions of the board shall require a quorum and shall be in accordance with
 13 voting procedures established by the board.

14 (6) Ex officio members may be appointed to the board by the board and shall
 15 serve at the pleasure of the board. Ex officio members shall not be entitled to vote.

16 (7) Board members not otherwise compensated by their appointing agency for
 17 service on the board may be compensated by the authority for the actual performance of
 18 duties as a board member. Actual expenses incurred by a board member for service as a
 19 board member may be paid by the authority or by the appointing agency of the board
 20 member.

21 (8) The authority shall be liable and responsible for the actions of the board
 22 members and employees of the authority when the board members and employees are
 23 performing their duties on behalf of the authority.

24
 25 **40-2106. DUTIES OF THE BOARD.** The board shall have the following
 26 duties:

27 (1) To adopt a plan for the region following a public hearing thereon.

28 (2) To exercise the powers contained in this chapter to implement the adopted
 29 plan approved by the electors in the region.

30 (3) When designated by the governor of this state, to serve as the metropolitan
 31 planning organization for a region. Upon such designation, the board shall then carry out
 32 the duties prescribed by federal law for a metropolitan planning organization.

33
 34 **40-2107. REGIONAL TRANSPORTATION FUNDING PLANS.**

35 (1) A plan shall include, at a minimum, the following:

36 (a) The proposed use of revenues derived from the tax to be used for funding
 37 projects.

38 (b) The allocation of tax revenues between highway and public transportation
 39 systems as determined by the board; provided, however, that a plan need not provide for
 40 the funding of both types of systems.

41 (2) No tax imposed under a plan shall have a term in excess of thirty (30) years
 42 after the plan's approval by the electors of the region.

43 (3) In adopting a plan, a board shall consider:

1 (a) Demand for transportation services over at least the next thirty (30) years,
 2 focusing at the systems level, including, without limitation, roadways, transit,
 3 non-motorized transportation and intermodal connections;

4 (b) Regional land use, development, housing and employment;

5 (c) The costs for funding any highway and public transportation systems and all
 6 reasonably available financial sources for financing, constructing, operating and
 7 maintaining such systems, including the available capital investment for such systems;
 8 and

9 (d) Ways to preserve existing highway and public transportation systems and to
 10 make efficient use of such existing systems.

11 (4) Prior to its adoption by the board, the board shall hold a public hearing on the
 12 proposed plan. Notice of the hearing shall be posted at least ten (10) days prior to the
 13 hearing at a conspicuous place with each county in the region. A copy of the notice shall
 14 also be published pursuant to the provisions of section 40-206, Idaho Code. The place,
 15 hour and date of the hearing shall be specified in the notice, as well as the place where
 16 the draft plan may be examined prior to the hearing. A summary of the plan shall be
 17 published with and as a part of the notice of publication of the notice of hearing.

18 (5) A summary of the plan adopted by the board following the public hearing
 19 shall be included with the ballot question presented to qualified electors of a region in
 20 any election authorizing a tax held pursuant to this chapter. A vote by qualified electors
 21 to authorize the creation of tax pursuant to this chapter shall be deemed to be approval of
 22 the plan by the electors. A plan approved by electors shall not be modified during the
 23 term of the plan.

24
 25 **40-2108. GENERAL POWERS OF THE BOARD.** The board has power:

26 (1) To sue and be sued;

27 (2) To raise and expend funds and revenues as provided in this chapter;

28 (3) To issue bonds as provided in this chapter;

29 (4) To adopt and use an official seal;

30 (5) To levy a tax as provided for in this chapter;

31 (6) To collect and distribute revenues to implement a plan;

32 (7) To invest any funds not needed for immediate use or disbursement, including
 33 any funds held in reserve, in: (a) securities or investments in which the state treasurer
 34 may invest funds in the state treasury pursuant to sections 67-1210 and 67-1210A, Idaho
 35 Code; and (b) such other investments as may be specified in a bond resolution or trust
 36 indenture securing bonds of the authority, if such funds represent bond proceeds or
 37 amounts pledged to the payment of bonds;

38 (8) To enter into contracts and agreements affecting the affairs of the authority;

39 (9) To pledge all or any portion of the revenues to the payment of bonds of the
 40 authority;

41 (10) To employ personnel, contract for services with public and private agencies
 42 and retain legal and other professional counsel;

1 (11) To adopt resolutions consistent with law, as necessary, for carrying out the
 2 purposes of this chapter and discharging all powers and duties conferred to the authority
 3 pursuant to this chapter; and

4 (12) To require an annual audit made of the financial affairs of the authority as
 5 required in section 67-450B, Idaho Code, within one hundred eighty (180) days after the
 6 end of the fiscal year.

7
 8 **40-2109. ADDITIONAL POWERS OF THE BOARD RELATED TO**
 9 **PUBLIC TRANSPORTATION SYSTEMS.** For any authority that chooses to operate
 10 public transportation systems within a region, the board shall have the following
 11 additional power and exclusive jurisdiction:

12 (1) To finance, construct, operate or maintain public transportation systems
 13 within the boundaries of the region;

14 (2) To operate all publicly funded or publicly subsidized public transportation
 15 services and programs within the region except those public transportation services and
 16 programs under the jurisdiction of public school districts and law enforcement agencies;

17 (3) To provide as appropriate public transportation services on fixed or unfixed
 18 routes; public transportation services on fixed or unfixed schedules; paratransit services
 19 for the elderly and people with disabilities as defined in the Americans with disabilities
 20 act; special services to accommodate community celebrations, sporting events and
 21 entertainment open to the public; public transportation services between cities, rural
 22 areas, park-and-ride facilities, employment centers, health care facilities, universities and
 23 colleges, and commercial and shopping areas; commuter services between communities;
 24 and van or carpool programs;

25 (4) To fix by resolution the fares and fees to be charged those who use its public
 26 transportation services; provided, however, that prior to adopting any such resolution, the
 27 board shall publish proposed fares and fees in at least one (1) issue of a newspaper having
 28 general circulation in the region and shall hold at least one (1) public hearing on the
 29 proposed fares and fees;

30 (5) To establish, fund, control and operate the administrative, equipment
 31 maintenance, servicing, storage, fueling, and other facilities required to support a safe and
 32 efficient public transportation system;

33 (6) To purchase and hold lands, make contracts, purchase and hold personal
 34 property as may be necessary or convenient for the purposes of this chapter, and to sell
 35 and exchange real and personal property; provided, however, that the board shall first
 36 adopt a resolution finding that the property to be sold or exchanged is no longer needed
 37 by or useful to the authority; and that a public hearing is to be held, of which hearing
 38 notice shall be published in accordance with the provisions of section 40-206, Idaho
 39 Code;

40 (7) In accordance with the provisions on eminent domain set forth in chapter 7,
 41 title 7, Idaho Code, to exercise the power of eminent domain in the manner provided by
 42 law for the condemnation of private property for public use to take any property within
 43 the region necessary to the exercise of the powers herein granted as related to a public
 44 transportation system; and

1 (8) To enter into cooperative agreements with the state, other authorities, counties,
 2 cities and highway districts under the provisions of section 67-2328, Idaho Code,
 3 including, without limitation, cooperative agreements for the providing of a public
 4 transportation service by such other governmental entity.
 5

6 **40-2110. BUDGET.**

7 (1) The board shall annually adopt a budget and cause a public hearing to be held
 8 upon the budget.

9 (2) Notice of the budget hearing shall be posted at least ten (10) days prior to the
 10 date of the meeting in at least one (1) conspicuous place in each county within the
 11 boundaries of the authority and at the administrative offices of the authority. A copy of
 12 the notice shall also be published in accordance with the provisions of section 40-206,
 13 Idaho Code. The place, hour and day of the hearing shall be specified in the notice, as
 14 well as the place where the budget may be examined prior to the hearing. A full and
 15 complete copy of the proposed budget shall be published with and as a part of the
 16 publication of the notice of hearing.

17 (3) The budget shall be available for public inspection from and after the date of
 18 the posting of notice of hearing at a place and during business hours as the board may
 19 direct.

20 (4) A quorum of the board shall attend the hearing and explain the proposed
 21 budget and hear any and all objections to it.

22 (5) The budget shall be completed and finalized not later than the Tuesday
 23 following the first Monday in September for the ensuing fiscal year.

24 (6) The fiscal year of the authority shall commence on the first day of October of
 25 each year.
 26

27 **40-2111. LOCAL OPTION SALES AND USE TAX.** The qualified
 28 electors of a region shall have the legal authority to authorize the board to implement the
 29 plan by adopting, implementing, and causing to be collected a tax upon all sales and use
 30 received or delivered within the region that are subject to taxation under chapter 36,
 31 title 63, Idaho Code. In accordance with applicable destination-based sourcing rules
 32 adopted by the state tax commission, the board shall have the power and authority to
 33 adopt, implement and collect a tax if approved by two-thirds (2/3) of all votes cast by the
 34 qualified electors of the region voting in an election conducted for the purpose, and if
 35 such election is held on the consolidated election dates (as provided in section 34-106,
 36 Idaho Code), in May or November of any year.
 37

38 **40-2112. ELECTION TO AUTHORIZE TAX.**

39 (1) In an election, the question presented to the qualified electors of the region shall:

40 (a) Provide a description and general explanation of the tax to be approved;

41 (b) State that the rate of the tax to be assessed shall be set by the authority as set forth in
 42 the plan, but that the rate shall be at least one-tenth of one percent (0.10%) but not more than one
 43 percent (1%) of the sales price of an item subject to taxation;

1 (c) State that the revenues derived from the tax shall be used only for purposes specified
2 in the plan;

3 (d) State the estimated term of the tax; and

4 (e) Include a summary of the plan adopted by the board with respect to the tax in
5 question.

6 (2) Upon voter approval of the tax, the board shall provide by resolution the methods for
7 reporting and collecting the taxes due. Such resolution shall also state the rate to be assessed,
8 established as follows:

9 (a) The board, pursuant to an estimate based upon the budget adopted, the plan and
10 anticipated reserve or other monetary requirements, shall impose a tax of at least one-tenth of
11 one percent (0.10%) but not more than one percent (1%) of the sales price of an item subject to
12 taxation.

13 The board shall comply with the filing and recording requirements of section 63-215,
14 Idaho Code, and shall cause a copy of any resolution, or amendment thereto, to be forwarded to
15 the state treasurer, the chairman of the state tax commission and the chairman of the state board
16 of tax appeals.

17 (3) Taxes collected shall constitute revenue of the authority available for purposes of
18 implementing the plan. Tax collection shall commence on a date set forth in the resolution, but
19 not earlier than the next quarter that commences at least sixty (60) days after the date of the
20 election.

21 (4) The term of the tax then in effect may be extended, but only if approved by
22 two-thirds (2/3) of all votes cast by the qualified electors voting in a reauthorization election
23 conducted for such purpose. A reauthorization election may be held in any year prior to the
24 expiration of the term of the tax then in effect. Any such election shall only be held in any year
25 at the May or November election dates pursuant to section 34-106, Idaho Code. A summary of
26 the plan adopted by the board with respect to the extension of the term of the tax in question
27 shall be included. If the extension of the term of the tax is reauthorized, a copy of the board
28 resolution authorizing an extension of the term of the tax shall be provided to the state treasurer,
29 the chairman of the state tax commission, the chairman of the state board of tax appeals and each
30 county tax collector in all counties in which the region is located.

31
32 **40-2113. TERM OF TAX.** Except as reauthorized pursuant to an election by the
33 qualified electors of the region as provided in section 40-2112, Idaho Code, no tax assessed by
34 the authority shall have a term exceeding thirty (30) years.

35
36 **40-2114. COLLECTION AND ADMINISTRATION OF TAX BY THE**
37 **STATE TAX COMMISSION - DISTRIBUTION.** (1) Any authority which has levied a tax
38 pursuant to this chapter shall contract with the state tax commission for the collection and
39 administration of the tax in like manner and under definitions and rules of the state tax
40 commission for the collection and administration of the state sales and use tax under chapter 36,
41 title 63, Idaho Code. The state tax commission is authorized to adopt additional rules as may be
42 necessary for efficient and effective tax collection and administration under this chapter,
43 including, without limitation, destination-based sourcing rules as are compatible with chapter 36,

1 Title 63, Idaho Code, and use tax credit rules as are compatible with section 1. of article V of
2 section 63-3701, Idaho Code.

3 (2) The authority shall contract with the state tax commission for registration, collection
4 and return and money processing services. Additional services, such as audit, appeals,
5 compliance or legal representation, may be contracted with the state tax commission as
6 determined appropriate by the board. The costs of any such contracted services shall be paid
7 from the tax receipts, subject to subsection (3) (b) of this section.

8 (3) All revenues collected by the state tax commission pursuant to section 40-2112,
9 Idaho Code, shall be distributed as follows:

10 (a) An amount of money shall be distributed to the state refund fund sufficient to pay
11 current refund claims. All refunds authorized by the state tax commission to be paid shall be
12 paid through the state refund fund and those moneys are continuously appropriated.

13 (b) An amount of money shall be distributed to the state tax commission equal to such
14 fee as may be agreed upon between the state tax commission and such authority for the actual
15 cost of the collection and administration of the tax. The amount retained by the state tax
16 commission shall not exceed the amount authorized to be expended by appropriation by the
17 legislature. Any unencumbered balance in excess of the actual cost at the end of each fiscal year
18 shall be distributed as provided in subsection (3) (c) of this section.

19 (c) All remaining moneys shall be placed in the regional transportation authorities fund
20 established in section 40-2114, Idaho Code, and distributed as provided in that section to the
21 appropriate board of the authority levying such tax.

22
23 **40-2115. REGIONAL TRANSPORTATION AUTHORITIES FUND**
24 **ESTABLISHED - DISTRIBUTION OF MONEYS.**

25 (1) There is hereby established in the state treasury a fund known as the "Regional
26 Transportation Authorities Fund," which shall be referred to as the RTA fund, to which shall be
27 credited moneys as provided by section 40-2113(3) (c), Idaho Code.

28 (2) Interest earned on the investment of idle moneys in the RTA fund shall be paid to the
29 RTA fund.

30 (3) Distributions from the fund shall be made to the appropriate board, upon demand of
31 the board, to be spent, pledged or accumulated for any purpose in furtherance of each element of
32 the plan.

33
34 **40-2116. BOND ISSUES.**

35 (1) An authority shall have power to issue bonds, from time to time, in its discretion, in
36 the exercise of any of its powers. An authority shall also have power to issue refunding bonds
37 for the purpose of paying or retiring bonds previously issued by it. In order to carry out the
38 purposes of this chapter, an authority may issue, upon proper resolution, bonds on which the
39 principal and interest are payable solely out of all or a specified portion of the revenues
40 designated by the board.

41 (2) Any such bonds may be additionally secured by a pledge of any revenues, moneys or
42 property of the authority. Any pledge made by the authority shall be valid and binding from the
43 time when the pledge is made and recorded; the revenues, moneys or property so pledged and
44 thereafter received by the authority shall immediately be subject to the lien of the pledge without

1 any physical delivery thereof or further act, and the lien of any such pledge shall be valid and
 2 binding as against all parties having claims of any kind in tort, contract or otherwise against the
 3 authority, irrespective of whether the parties have notice thereof.

4 (3) Neither the board of any authority nor any person executing the bonds shall be liable
 5 personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an
 6 authority shall state on their face that:

7 (a) They shall not be a debt of the county, the state or any political subdivision thereof;

8 (b) None of the county, the state or any political subdivision thereof shall be liable
 9 thereon; and

10 (c) In no event shall such bonds or obligations be payable out of any funds other than
 11 those of the authority. Bonds of an authority are declared to be issued for an essential public and
 12 governmental purpose and to be public instrumentalities and, together with interest thereon and
 13 income there from, shall be exempt from taxation.

14
 15 **40-2117. ISSUANCE OF BONDS - TERMS - NEGOTIABLE ACTIONS TO**
 16 **TEST VALIDITY - CONCLUSIVE PRESUMPTIONS.**

17 (1) Bonds of an authority shall be authorized by resolution of its board and may be
 18 issued in one (1) or more series and shall bear such date or dates, mature at such time or times
 19 not exceeding the term of the tax imposed under this chapter for repayment of the bonds, bear
 20 interest at such rate or rates as the board shall approve, be in such denomination or
 21 denominations, be in such form, either coupon or registered, carry such conversion or
 22 registration privileges, have such rank or priority, be executed in such manner, be payable in
 23 such medium of payment, at such place or places, and be subject to such terms of redemption,
 24 with or without premium as such resolution, its trust indenture, or the bonds so issued, may
 25 provide.

26 (2) The bonds may be sold at public or private sale at such price or prices, in such
 27 manner, and at such times as determined by the board, and the board may pay all fees, expenses,
 28 and commissions that it deems necessary or advantageous in connection with the sale of the
 29 bonds.

30 (3) In case any of the board members or officers of the authority whose signatures appear
 31 on any bonds or coupons shall cease to be a board member or officer before the delivery of such
 32 bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if
 33 such board member or officer had remained in office until such delivery. Any provision of any
 34 law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully
 35 negotiable.

36 (4) In any suit, action or proceeding involving the validity or enforceability of any bond
 37 of an authority or the security thereof, any such bond, reciting, in substance, that it has been
 38 issued by the authority for purposes of financing the region's public transportation system, shall
 39 be conclusively deemed to have been issued for such purposes in accordance with the provisions
 40 of this chapter.

41
 42 **40-2118. ELECTION TO AUTHORIZE BONDS.**

43 (1) Whenever the board shall deem it advisable to issue the bonds of the authority, the
 44 board shall provide for the same by resolution, which shall specify and set forth all the purposes

1 and objects of such bonds. The resolution shall also provide for holding an election at a time
 2 specified in section 34-106, Idaho Code, for which thirty (30) days' notice shall be given in the
 3 official newspaper of each county within the boundaries of the region. The voting at such
 4 elections shall be by ballot, and the ballot used shall be substantially as follows: "In favor of
 5 issuing bonds to the amount of dollars for the purpose stated in resolution no.," and
 6 "Against issuing bonds to the amount of dollars for the purpose stated in resolution no.".
 7 The election may be held in connection with any election to authorize or re-authorize a sales and
 8 use tax pursuant to this chapter.

9 (2) If two-thirds (2/3) of the qualified electors voting at such election assent to the
 10 issuing of such bonds and the incurring of the indebtedness thereby created for the purpose
 11 aforesaid, such bonds shall be issued in the manner provided in this chapter.

12
 13 **40-2119. POWERS TO SECURE PAYMENT OF BONDS.** In connection with
 14 the issuance of bonds or the incurring of obligations under leases in order to secure the payment
 15 of such bonds or obligations, an authority, in addition to its other powers, shall have power to:

16 (1) Pledge all or any part of its revenues to which its right then exists, or may thereafter
 17 come into existence.

18 (2) Mortgage all or any part of its real or personal property then owned or thereafter
 19 acquired.

20 (3) Covenant against pledging all or any part of its revenues or property; to covenant
 21 with respect to limitations on its right to sell, lease or otherwise dispose of any project or any
 22 part thereof; and to covenant as to what other, or additional debts or obligations may be incurred
 23 by it.

24 (4) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow
 25 or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the
 26 replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the
 27 payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for the
 28 redemption and to provide the terms and conditions thereof.

29 (5) Covenant, subject to the limitations contained in this chapter, as to the revenues to be
 30 received by the authority and as to the use and disposition to be made thereof; to create or to
 31 authorize the creation of special funds for moneys held for construction or operating costs, debt
 32 service, reserves or other purposes; and to covenant as to the use and disposition of the moneys
 33 held in such funds.

34 (6) Prescribe the procedure, if any, by which the terms of any contract with bondholders
 35 may be amended or abrogated, the amount of bonds the holders of which must consent thereto
 36 and the manner in which such consent may be given.

37 (7) Covenant as to the use of any or all of its real or personal property; and to covenant
 38 as to the maintenance of its real and personal property, the replacement thereof, the insurance to
 39 be carried thereon and the use and disposition of insurance moneys.

40 (8) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it
 41 of any covenant, condition or obligation; and to covenant and prescribe as to default and terms
 42 and conditions upon which any or all of its bonds or obligations shall become or may be declared
 43 due before maturity, and to the terms and conditions upon which such declaration and its
 44 consequences may be waived.

1 (9) Vest, in trustee or trustees or the holders of bonds or any portion of them, the right to
2 enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a
3 trustee or trustees the right, in the event of a default by said authority, to take possession of any
4 project or part thereof, and so long as said authority shall continue in default, to retain such
5 possession and use, to operate and manage said project, and to collect the rents and revenues
6 rising there from and to dispose of such moneys in accordance with the agreement of the
7 authority with said trustee, to provide for the powers and duties of a trustee or trustees and to
8 limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or
9 trustees or the holders of bonds or any portion of them, may enforce any covenant or rights
10 securing or relating to the bonds.

11 (10) Exercise all or any part or combination of the powers herein granted; to make
12 covenants other than and in addition to the covenants herein expressly authorized, of like or
13 different character; to make such covenants as will tend to make the bonds more marketable,
14 notwithstanding that such covenants, acts or things may not be enumerated herein.
15

16 **40-2120. LIMITATION ON AMOUNT OF BONDS AND REVENUES**
17 **PLEDGED.** Notwithstanding the provisions of sections 40-2115 through 40-2118, Idaho Code,
18 no authority shall have outstanding at any time an amount of bonds that requires more than
19 twenty percent (20%) of the authority's revenues in such year to pay the highest amount of
20 principal and interest on the bonds coming due in any year thereafter to and including the
21 maturity date of the bonds.
22

23 **40-2121. RIGHTS OF OBLIGEEES - MANDAMUS - INJUNCTION.** An
24 obligee of an authority shall have the right, in addition to all other rights which may be conferred
25 on such obligee, subject only to any contractual restrictions binding upon such obligee:

26 (1) By mandamus, suit, action or proceedings at law or in equity, to compel said
27 authority and the board, officers, agents or employees thereof to perform each and every term,
28 provision and covenant contained in any contract of said authority, with or for the benefit of such
29 obligee, and to require the carrying out of any or all such covenants and agreements of said
30 authority and the fulfillment of all duties imposed upon said authority by this chapter.

31 (2) By suit, action or proceeding in equity, to enjoin any acts which may be unlawful, or
32 the violation of any of the rights of such obligee of said authority.
33

34 **40-2122. SWAPS.** In connection with, or incidental to, the issuance or carrying of
35 bonds, but only for the purpose of reducing the amount or duration of payment, interest rate,
36 spread or similar risk, or to result in a lower cost of borrowing, and not for the purposes of
37 investment or speculation, the authority may enter into contracts, which the authority determines
38 to be necessary or appropriate, to hedge such risk or to place the obligation of the bonds, in
39 whole or in part, on the interest rate, cash flow, or other basis desired by the authority, including
40 without limitation, contracts commonly known as interest rate swap agreements, interest rate
41 caps or floors, forward payment conversion agreements, futures or hedge contracts.
42

43 **40-2123. ELECTIONS.**

1 (1) With respect to the contest of any tax or bond election held pursuant to this chapter,
2 the provisions of section 34-2001A, Idaho Code, shall be applicable to the same effect as if the
3 election were a bond election conducted by a county and a contest of same were being pursued in
4 accordance with the provisions of section 34-2001A, Idaho Code.

5 (2) The costs of all elections provided for pursuant to this chapter shall be paid equally
6 as between cities, counties and highway districts within the region of any authority, with pro rata
7 allocation within the cities, counties and highway districts as they may determine amongst
8 themselves.
9

10 **40-2124. EXEMPTION FROM TAXATION.** The state of Idaho declares that
11 authorities shall be required to pay no taxes or assessments upon any of the property acquired by
12 them or under their respective jurisdiction, control, possession, or supervision or upon the
13 activities of authorities in the operation and maintenance of projects and services, or upon any
14 revenues received by authorities, or upon special fuels used in motor vehicles owned or leased
15 and operated by authorities, and that the bonds of authorities and the income there from shall at
16 all times be exempt from taxation. Authorities created pursuant to this chapter shall be exempt
17 from the sales and use tax imposed under the provisions of 63-3621, Idaho Code, and shall be
18 entitled to such credits and refunds as other political subdivisions of the state of Idaho are
19 entitled under section 63-2423, Idaho Code.
20

21 **40-2125. ALLOCATION FROM STATE HIGHWAY ACCOUNT NOT**
22 **AFFECTED.** Moneys allocable to any city, county or highway district from the state highway
23 account shall not be increased or decreased as a result of the creation of a tax under this chapter.
24

25 **40-2126. SEVERABILITY.** The provisions of this chapter are hereby declared to
26 be severable and if any provision of this chapter or the application of such provision to any
27 person or circumstance is declared invalid for any reason, such declaration shall not affect the
28 validity of the remaining portions of this chapter.