

IN THE SENATE

SENATE BILL NO. 1077

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO POLITICAL SUBDIVISIONS; AMENDING SECTION 21-401, IDAHO CODE, TO
2 PROVIDE REQUIREMENTS FOR CERTAIN LEASES OF AVIATION FIELDS AND AIRPORT
3 PROPERTY; AMENDING SECTION 31-836, IDAHO CODE, TO PROVIDE REQUIREMENTS
4 FOR CERTAIN LEASES OF COUNTY PROPERTY; AMENDING SECTION 40-1309, IDAHO
5 CODE, TO PROVIDE REQUIREMENTS FOR CERTAIN LEASES OF HIGHWAY DISTRICT
6 PROPERTY AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION 50-1407,
7 IDAHO CODE, RELATING TO CITY LEASES; AMENDING SECTION 50-1409, IDAHO
8 CODE, TO PROVIDE REQUIREMENTS FOR CERTAIN LEASES OF CITY PROPERTY AND TO
9 MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN
10 EFFECTIVE DATE.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Section 21-401, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 21-401. AUTHORITY TO PROVIDE FACILITIES -- EXPENSE -- ISSUANCE OF
16 BONDS -- DUTIES OF COMMISSIONERS AND COUNCILMEN -- RESTRICTION ON LEASE OF
17 FACILITIES. (1) Counties, highway districts and cities are hereby autho-
18 rized to acquire by purchase, lease, condemnation, or otherwise, take over
19 and hold lands either wholly or partly within or without the boundaries or
20 corporate limits of such counties, highway districts or cities, or wholly or
21 partly within or without the state of Idaho, for the purpose of constructing
22 and maintaining aviation fields, airports, hangars and other air navigation
23 facilities; to provide equipment necessary or incidental to the maintenance
24 and operation of such aviation fields or airports; to maintain, operate and
25 manage such aviation fields, airports and grounds and prescribe rules and
26 regulations for the maintenance, operation and management thereof, and fix
27 fees and rentals to be charged for the use of the same or any part thereof;
28 to survey, plat, map, grade, ornament and otherwise improve such lands and
29 all appurtenances thereto, whether owned and operated or owned or leased by
30 such counties, highway districts or cities, and all approaches and avenues
31 leading to or adjacent thereto; to lease for aviation purposes or for any
32 purposes connected therewith and incidental thereto and for such commer-
33 cial purposes, subject to the provisions of subsection (5) of this section,
34 as the governing bodies of such counties, highway districts and cities may
35 determine upon all or any part of the land or lands so required, under such
36 regulations and upon such terms and conditions as shall be established by
37 such governing bodies, and not subject to the limitation as to length of term
38 prescribed in section 31-836, Idaho Code; to construct, operate and maintain
39 hangars, buildings and equipment necessary or convenient to the maintenance
40 and operation of aviation fields or airports.

41 (2) Counties, highway districts and cities are hereby empowered to pro-
42 vide for all costs and expenses necessary or incident to the exercise of the

1 foregoing powers or the attainment of the foregoing objects or any of them,
2 out of the general funds or out of any of the funds made available for such
3 purposes, of such counties, highway districts and cities, or to issue bonds
4 pursuant to law for the payment of any or all of such costs and expenses ex-
5 cept for the maintenance and operation of such aviation fields or airports.
6 Nothing contained in this chapter shall be construed to increase the maximum
7 of any tax levies for counties, highway districts or cities.

8 (3) The boards of county commissioners of their respective counties,
9 the highway commissioners of their respective highway districts and the
10 councilmen of their respective cities, shall have jurisdiction and power un-
11 der such limitations and restrictions as are prescribed by law to carry into
12 full force and effect all of the provisions of this law.

13 (4) Such aviation fields or airports shall in no case be leased to any
14 person, association or corporation under such terms or conditions as to give
15 such person, association or corporation, the exclusive right to the use of
16 such aviation fields or airports.

17 (5) Aviation fields or airport property shall not be leased to any
18 person, association, or corporation if the lease agreement contains a
19 profit-sharing component between the political subdivision and a private
20 party, except under reasonable competitive bidding procedures as provided
21 in this subsection. At least thirty (30) days prior to the execution of
22 any contract to lease or sell by lease-purchase agreement, the political
23 subdivision must publish public notice in a newspaper having a general cir-
24 ulation in the community a request for proposals from, and make available
25 all pertinent information to, any persons interested in entering into a
26 profit-sharing lease arrangement with the public subdivision. The notice
27 shall identify the property to be leased, state that proposals shall be made
28 by those interested within thirty (30) days after the date of publication
29 of the notice, and advise that further information as is available may be
30 obtained at such office as shall be designated in the notice. The political
31 subdivision shall consider all proposals and the financial and legal ability
32 of the persons making such proposals to carry them out, and may negotiate
33 with any persons for proposals for the purchase, lease, or other transfer
34 of the property. The political subdivision may accept such proposal as it
35 deems to be in the public interest and in furtherance of the political sub-
36 division's responsibilities. The political subdivision may execute such
37 agreement and deliver leases or other instruments and take all steps neces-
38 sary to effectuate such agreement.

39 SECTION 2. That Section 31-836, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 31-836. LEASE OF COUNTY PROPERTY. Except as otherwise provided by law,
42 the board of county commissioners may lease any property belonging to the
43 county:

44 (1) Without public auction for a term not exceeding five (5) years at
45 such rental as may be determined upon by the unanimous vote of such board, or
46 at public auction to the highest bidder for a term not exceeding thirty (30)
47 years. Rents shall be paid annually in advance provided, however, that the
48 provision requiring the payment of rent in advance shall not apply to a lease

1 to the federal or state government, a municipal corporation of this state, or
2 any governmental agency or department.

3 (2) Any hospital or hospital grounds or portions thereof to be used in
4 conjunction with hospital operations or hospital equipment belonging to the
5 county may be leased by the board without public auction for a term not ex-
6 ceeding thirty-five (35) years; or any property suitable for a shelter in-
7 tended to house victims of sexual or domestic violence which property be-
8 longing to the county may be leased by the board without public auction to
9 any nonprofit corporation or association organized for the purpose of erect-
10 ing and maintaining a shelter to house victims of sexual or domestic violence
11 for a term not exceeding twenty (20) years; and, provided further, that the
12 county, either as lessor or lessee, may enter into any lease or other trans-
13 action concerning any property with the Idaho health facilities authority
14 for any term not to exceed ninety-nine (99) years.

15 (3) Any property belonging to the county may be leased by the board
16 without public auction for a term not to exceed thirty (30) years, to be used
17 for an industrial park in conjunction with economic development purposes.
18 An industrial park for purposes of this section means facilities for man-
19 ufacturing, processing, production, assembly warehousing or activities
20 associated therewith.

21 (4) Without public auction the board of county commissioners may lease
22 any property belonging to the county and not necessary for its use to the
23 state of Idaho or any political subdivision thereof for any public purpose,
24 to any nonprofit corporation or association organized for the purpose of
25 erecting and maintaining thereon any play field, recreation park or sta-
26 dium to serve as a memorial to the living or deceased soldiers, sailors and
27 marines of an armed conflict entered into by the United States, or to any hos-
28 pital district organized under chapter 13, title 39, Idaho Code, for use in
29 furthering the purposes of said district or to any nonprofit corporation or
30 association organized for the purpose of erecting and maintaining an animal
31 shelter. Such lease may be for any term not to exceed ninety-nine (99) years,
32 may provide for only a nominal rental to the county and shall, by its provi-
33 sions, terminate when the property so leased ceases to be used for any public
34 purpose, as an animal shelter, as a play field, recreation park or stadium
35 serving as a memorial, or by the hospital district for its purposes. Nothing
36 in this subsection shall prohibit the naming or title sponsorship of any
37 play field, recreation park or stadium erected and maintained as a memorial
38 as provided in this subsection as long as the play field, recreation park or
39 stadium continues to serve as such memorial.

40 (5) Notwithstanding any other provision of law to the contrary, a
41 county shall not lease property to any person, association, or corporation
42 if the lease agreement contains a profit-sharing provision unless the public
43 notice and bidding procedures set forth in section 31-808, Idaho Code, are
44 followed. The county shall consider all proposals and the financial and
45 legal ability of the persons making such proposals to carry them out, and may
46 negotiate with any persons for proposals for the lease or other transfer of
47 the property. The county may accept such proposal as it deems to be in the
48 public interest and in furtherance of the county's purposes. The board of
49 county commissioners may execute such agreement and deliver leases or other
50 instruments and take all steps necessary to effectuate such agreement.

1 SECTION 3. That Section 40-1309, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 40-1309. CORPORATE POWERS OF HIGHWAY DISTRICTS. Each highway district
4 has power:

5 (1) To sue and be sued.

6 (2) To purchase and hold lands, make contracts, purchase and hold per-
7 sonal or real property as may be necessary or convenient for the purposes of
8 this chapter, and to sell and, lease, or exchange any real or personal prop-
9 erty, other than public lands which by the constitution and laws of the state
10 are placed under the jurisdiction of the state land board.

11 (a) Personal or real property, no longer useful to the district, not
12 exceeding ten thousand dollars (\$10,000) in value may be sold by the
13 highway commissioners at a private sale or at any regular board meeting
14 without advertisement. Before disposing of all other personal or real
15 property exceeding ten thousand dollars (\$10,000) in value, the highway
16 district commissioners shall first conduct a public hearing for which
17 notice shall be published in accordance with the provisions of section
18 40-206, Idaho Code, and at which hearing any person interested may ap-
19 pear and show cause that such personal or real property is still useful
20 to the district and that the sale or exchange should not be made. Fol-
21 lowing testimony by all interested persons at the public hearing, the
22 highway district commissioners may adopt a resolution finding that such
23 personal or real property is no longer useful to the district and find-
24 ing that such personal or real property should be sold or exchanged and
25 establishing procedures for the sale of such personal or real property
26 including, but not limited to, the date and time of the sale and whether
27 the sale will be by live public auction, by receipt of sealed bids or
28 by some other reasonably commercial means. The hearing and sale or ex-
29 change shall not be conducted at the same regular meeting and, except
30 as otherwise provided by law, the only notice required for such sale or
31 exchange shall be as set forth in section 74-204, Idaho Code.

32 (b) Before entering into any lease or lease-purchase agreement con-
33 taining a profit-sharing component between the highway district and a
34 private entity, the procedures set forth in paragraph (a) of this sub-
35 section must be followed as though the transaction were a sale.

36 (c) Provided however, that before the district disposes of surplus real
37 property at public sale, the district shall first notify any person who
38 owns real property that is contiguous with the surplus real property of
39 the district that such person has first option to purchase the surplus
40 real property for an amount not less than the current appraised value.
41 If more than one (1) adjoining owner wants to purchase the surplus real
42 property, a private auction shall be held for such parties. If no owner
43 of adjoining property exercises his or her option to buy, the district
44 may proceed to public sale.

45 (d) Highway district commissioners, highway directors, employees,
46 and their families must be personally disinterested, directly or indi-
47 rectly, in the purchase of property for the use of the highway district,
48 or in the sale of any property belonging to the highway district, or in

1 any contract made by the highway district or other person on behalf of
2 the highway district unless otherwise authorized by law.

3 (3) To levy and apply ad valorem taxes for purposes under its exclusive
4 jurisdiction as are authorized by law.

5 SECTION 4. That Section 50-1407, Idaho Code, be, and the same is hereby
6 repealed.

7 SECTION 5. That Section 50-1409, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 50-1409. LEASES. (1) The mayor and council may, by resolution, autho-
10 rize the lease of any property not needed for city purposes, upon such terms
11 as ~~may the city council deems to be just and equitable.~~

12 (2) The provisions of ~~sections 50-1401 through 50-1409~~ this chapter
13 shall not apply to the vacation or discontinuance of streets, highways, av-
14 enues, alleys, or lanes annulled, vacated, or discontinued.

15 (3) ~~Provided, that the~~ The council of a city, upon a vote of one half
16 (1/2) plus one (1) of the members of the full council, may set apart portions
17 of the public parks, playgrounds, or other grounds to be used from time to
18 time for athletic contests, golf links, agricultural exhibits, ball parks,
19 fairs, rodeos, swimming pools, and other amusements, and for military units
20 of the state of Idaho or the United States, and may, upon a vote of one half
21 (1/2) plus one (1) of the members of the full council, make and enter into
22 proper contracts with organizations and associations necessary and proper
23 to carry out the purposes of this provision. Provided, that a city shall not
24 be liable for any damage by reason of any accident occurring on the parks and
25 lands set apart for such purposes, except for gross negligence on the part of
26 the city or its officers or agents, and provided further, that an entrance
27 or other fee may be charged sufficient to pay the expense of maintaining and
28 operating the ground.

29 (4) Before entering into any lease or lease-purchase agreement that
30 contains a profit-sharing component between the city and a private entity,
31 the public notice and hearing provisions set forth in this chapter for the
32 sale of property must be followed.

33 SECTION 6. An emergency existing therefor, which emergency is hereby
34 declared to exist, this act shall be in full force and effect and shall apply
35 to any lease agreement entered into on and after July 1, 2023.