

IN THE SENATE

SENATE BILL NO. 1112

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SOLID WASTE DISPOSAL; AMENDING SECTION 31-4401A, IDAHO CODE,
2 TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
3 31-4402, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE AUTHORITY OF
4 COUNTY COMMISSIONERS; AMENDING SECTION 31-4403, IDAHO CODE, TO REVISE
5 PROVISIONS REGARDING OPERATION AND MAINTENANCE OF SOLID WASTE SITES,
6 FACILITIES, AND SYSTEMS; AMENDING SECTION 31-4407, IDAHO CODE, TO RE-
7 VISE A PROVISION REGARDING EXISTING AND FUTURE MUNICIPAL FACILITIES;
8 AMENDING SECTION 31-4407A, IDAHO CODE, TO REVISE PROVISIONS REGARD-
9 ING CHANGES IN STATUS OF MAJOR WASTE GENERATORS AND MUNICIPALITIES;
10 AMENDING SECTION 31-4902, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECH-
11 NICAL CORRECTIONS; AMENDING SECTION 31-4906, IDAHO CODE, TO REVISE A
12 PROVISION REGARDING POWERS OF THE BOARD OF DIRECTORS OF A SOLID WASTE
13 OR DOMESTIC SEPTAGE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AND
14 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
15

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

17 SECTION 1. That Section 31-4401A, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 31-4401A. DEFINITIONS. In this chapter:

20 (1) "Flow control" means any method or system under which a governmen-
21 tal entity, by ordinance, regulation, or other official directive, compels
22 solid waste haulers to process or dispose of waste at a designated facility.

23 ~~(1)~~ (2) "Major solid waste generator" means any person who generates
24 two ~~per cent~~ percent (2%) or more of the total solid waste originating in any
25 county.

26 ~~(2)~~ (3) "Person" means any natural person, firm, corporation, or other
27 entity, but does not include a municipality, a state agency, or a state edu-
28 cational institution.

29 ~~(3)~~ (4) "Significant effect" means any change in the amount of solid
30 waste to be sent to any waste disposal site ~~which that~~ exceeds either five per
31 cent percent (5%) of the total monthly amount of waste disposal at any par-
32 ticular solid waste disposal site during the most recent calendar year, ~~or~~
33 five ~~per cent~~ percent (5%) of the projected processing capacity of any new
34 solid waste disposal site.

35 ~~(4)~~ (5) "State agency" means each state board, commission, department,
36 or officer authorized by law to make rules or to determine contested cases.

37 ~~(5)~~ (6) "State educational institution" means a public educational fa-
38 cility or institution regulated by the state board of education or the board
39 of regents of the university of Idaho.

40 ~~(6)~~ (7) "System" means lands, sites, facilities, equipment and man-
41 power necessary for collection, transportation, storage, treatment,

1 processing, reuse, recycling, or other means necessary for the disposal of
2 solid waste.

3 ~~(7)~~ (8) "Waste processing facility" means any waste disposal site or
4 any public work at which solid waste is compacted, incinerated, or otherwise
5 treated prior to disposal. It shall not include the placement of portable
6 collection facilities or similar equipment used solely to facilitate col-
7 lection of solid waste.

8 SECTION 2. That Section 31-4402, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 31-4402. AUTHORITY OF COUNTY COMMISSIONERS. The board of county com-
11 missioners in each of the several counties is hereby authorized to acquire,
12 establish, maintain, and operate such solid waste disposal systems as are
13 necessary and to provide reasonable and convenient access to such disposal
14 systems by all the citizens of the county. For the purpose of establishing
15 systems for solid waste disposal, the board of county commissioners may
16 purchase, lease, condemn, or receive as gifts such areas as are suitable,
17 or the board may exchange land with any other unit or units of government
18 under such terms as are mutually advantageous. In order that a county may
19 acquire sites or systems as expeditiously and advantageously as possible,
20 a county may use funds from current revenues, may use funds made available
21 through the issuance of bonds, or may use funds made available from county
22 building construction funds, and the provisions of chapter 10, title 31,
23 Idaho Code, are hereby made applicable for the acquisition of solid waste
24 disposal systems ~~and a.~~ A solid waste disposal system is declared to be a
25 public building within the definition of chapter 10, title 31, Idaho Code,
26 except that notwithstanding any other provisions of law, no board of county
27 commissioners or other public authority shall be required to contract out
28 the establishment, acquisition, operation or maintenance of a solid waste
29 disposal system, but if it should elect to do so, it may waive the giving of
30 a bond or other security in connection with such contract upon such terms
31 and conditions as it deems appropriate, and provided further that any county
32 may itself, without contracting out to any other party, establish, acquire,
33 operate and maintain a solid waste disposal system. Provided that no board
34 of county commissioners, solid waste district board, or any other public
35 authority shall use compulsory means, including flow control, to limit the
36 private sector from competing.

37 SECTION 3. That Section 31-4403, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 31-4403. OPERATION AND MAINTENANCE. (1) It shall be the duty of the
40 board of county commissioners in each of the several counties to acquire
41 sites or facilities, and to maintain and operate solid waste disposal sys-
42 tems. Such maintenance and operation may, by exclusive or nonexclusive
43 means, be performed through or by:

44 ~~(1)~~ (a) Employees, facilities, equipment, and supplies hired by or ac-
45 quired by the board of county commissioners;
46 ~~(2)~~ (b) Contracts, franchises, or otherwise, entered into by the board
47 to have the maintenance and operation performed by private persons;

1 ~~(3)~~ (c) Contracts entered into by the board to have the maintenance and
 2 operation performed by another unit of government;
 3 ~~(4)~~ (d) Contracts, franchises, or otherwise, granted pursuant to law by
 4 the board, for all or any part or parts of the county; or
 5 ~~(5)~~ (e) Any combination of subsections ~~(1), (2), (3)~~ and (4) of this
 6 section, paragraphs (a) through (e) of this subsection.
 7 ~~(6)~~ (2) (a) Notwithstanding any other provision of law to the contrary,
 8 in order to provide for the public health, safety, and well-being, the
 9 board of county commissioners and/or another unit of state government,
 10 may shall determine whether solid waste disposal systems services are
 11 to be provided by means of a contract, franchise, or otherwise, provided
 12 for under subsection ~~(2)~~ (1) (b) of this section, or any contract, fran-
 13 chise, or otherwise, awarded under subsection ~~(4)~~ (1) (d) of this sec-
 14 tion, ~~with or without compulsory competitive bidding;~~ through competi-
 15 tive bidding or a request for proposals.
 16 ~~(7)~~ (b) The board of county commissioners, before entering into such
 17 contracts, franchises, or otherwise, may require such security for the
 18 performance thereof as it deems appropriate or may waive such undertak-
 19 ing.

20 SECTION 4. That Section 31-4407, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 31-4407. EXISTING AND FUTURE MUNICIPAL FACILITIES TO CONFORM TO
 23 CHAPTER. Solid waste disposal facilities now in existence or hereafter es-
 24 tablished and maintained and/or operated by any city shall conform in the
 25 same manner as county solid waste disposal facilities as provided in ~~section~~
 26 sections 34-4402 and 31-4405, Idaho Code.

27 SECTION 5. That Section 31-4407A, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 31-4407A. CHANGES IN STATUS OF MAJOR WASTE GENERATORS AND MUNICIPALI-
 30 TIES -- PROCEDURES. (1) Major solid waste generators and municipalities op-
 31 erating solid waste collection or disposal systems pursuant to the authority
 32 conferred by law or desiring to initiate or abandon such systems shall con-
 33 form to the procedures and standards set forth in this section before tak-
 34 ing any action ~~which~~ that would significantly affect the amount or distri-
 35 bution of solid waste within any county. The board of county commissioners
 36 of any county may waive operation of the procedure called for in this section
 37 by passage of a resolution indicating ~~their~~ its intent to do so. Provided
 38 that no board of county commissioners, solid waste district board, or any
 39 other public authority shall use compulsory means, including flow control,
 40 to limit the private sector from competing.

41 (2) Whenever a county ~~shall propose~~ proposes the establishment of a new
 42 solid waste processing facility within the boundaries of the county or in
 43 conjunction with adjoining counties, it shall give notice to the public and
 44 all municipalities within its boundaries that it intends to establish a pro-
 45 cessing facility. In conjunction with the notice, the county shall provide
 46 a copy of a feasibility study prepared by a licensed professional engineer
 47 concerning the proposed processing facility ~~which~~ that shall address the es-

1 timated capital cost of the facility, the estimated costs of operation of the
 2 facility, and the estimated life span of the facility. The notice shall be
 3 provided to potentially affected municipalities at least one hundred eighty
 4 (180) days prior to the scheduled initiation of construction of any solid
 5 waste processing facility.

6 (3) Within ninety (90) days of receipt of the notice, each affected mu-
 7 nicipality shall respond to the notice provided by the county, indicating in
 8 its response the intention of the municipality to participate in the use of
 9 the proposed facility or to develop or continue operation of an independent
 10 solid waste processing facility of its own for the projected duration of the
 11 proposed county project.

12 (4) Pursuant to the responses received from affected municipalities,
 13 the county proposing development of the solid waste processing facility may
 14 tender contracts to participating municipalities assuring the availabil-
 15 ity of waste disposal capacity at the proposed facility for any duration
 16 promised by contract and securing commitments from the municipalities to
 17 participate in use of the facility for the duration of its projected life.
 18 The contracts shall not constitute guarantees of costs or duration of ser-
 19 viceability of the proposed facility. The contracts may provide for annual
 20 adjustments to reflect changes in the relative contribution rates of mu-
 21 nicipalities to the waste stream feeding the disposal facility. No capital
 22 contribution obligation shall extend beyond fifteen (15) years. Additional
 23 contracts for capital participation may be proposed and entered into after
 24 the expiration of the initial agreement.

25 (5) Any municipality ~~which~~ that indicates its intent not to participate
 26 in a proposed facility shall be barred from later participation without the
 27 consent of the board of county commissioners and without payment of a capital
 28 contribution adequate to finance the cost of additional capacity adequate to
 29 accommodate the waste stream generated within the municipality. The amount
 30 and method of payment of the capital contribution shall be established by the
 31 board of county commissioners.

32 (6) Any municipality ~~which~~ that elects to participate in a given solid
 33 waste processing facility, but later elects to withdraw from said project,
 34 may do so, but shall remain obligated for any capital costs incurred in its
 35 behalf, but may receive partial credit for operational economies created by
 36 its withdrawal. The burden of proof of the extent of operational economies
 37 shall rest upon the withdrawing municipality.

38 (7) Major solid waste generators located outside participating munic-
 39 ipalities shall be treated in the same manner as municipalities concerning
 40 commitments to waste facility capacity. Boards of county commissioners are
 41 authorized to enter into contracts with major solid waste generators for the
 42 expected duration of operation of any solid waste processing facility.

43 SECTION 6. That Section 31-4902, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 31-4902. DEFINITIONS. As used in this chapter:

46 (1) "Act" or "this act" means this regional solid waste or domestic sep-
 47 tage district act.

48 (2) "Commissioners" means the board of commissioners of each county
 49 within a district.

1 (3) "District" means a regional solid waste or domestic septage dis-
2 trict created pursuant to this chapter.

3 (4) "District board" means the board of directors of a district.

4 (5) "Domestic septage" means either liquid or solid material removed
5 from a septic tank, cesspool, portable toilet, type III marine sanitation
6 device, or similar treatment works that receive only domestic sewage. Do-
7 mestic septage does not include liquid or solid material removed from septic
8 tanks, cesspools, or similar treatment works that receive either commercial
9 wastewater or industrial wastewater and does not include grease removed from
10 a grease trap at a restaurant.

11 (6) "Facility" or "facilities" means all equipment and other property,
12 including electrical cogeneration equipment, deemed necessary by the dis-
13 trict board for the operation of a solid waste disposal and/or resource re-
14 covery system or the operation of domestic septage receiving stations, do-
15 mestic septage treatment processes and domestic septage disposal methods.

16 (7) "Flow control" means any method or system under which a governmen-
17 tal entity, by ordinance, regulation, or other official directive, compels
18 solid waste haulers to process or dispose of waste at a designated facility.

19 ~~(7)~~ (8) "Participating county" means a county ~~which~~ that elects,
20 through action of the commissioners as provided in this chapter, to become a
21 member of a district.

22 ~~(8)~~ (9) "Solid waste" means any garbage, refuse, sludge from a waste
23 treatment plant, water supply treatment plant, or air pollution control fa-
24 cility and other discarded material, including solid, liquid, semi-solid,
25 or contained gaseous material resulting from industrial, commercial, min-
26 ing, and agricultural operations, and from community activities, but does
27 not include solid or dissolved materials in domestic sewage, or solid or dis-
28 solved materials in irrigation return flows or industrial discharges that
29 are point sources subject to permits under 33 U.S.C. 1342, or source, special
30 nuclear, or byproduct material as defined by the atomic energy act of 1954,
31 as amended.

32 ~~(9)~~ (10) "State" means the state of Idaho.

33 ~~(10)~~ (11) "System" means all components of solid waste operations,
34 including, but not limited to, landfill compliance measures, landfill dis-
35 posal operations, regional transfer operations, domestic septage receiving
36 stations, domestic septage disposal methods, domestic septage treatment
37 operations and resource recovery and management, on any site or sites ac-
38 quired, constructed, operated, or managed by a district.

39 SECTION 7. That Section 31-4906, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 31-4906. POWERS OF THE BOARD OF DIRECTORS. A district board shall have
42 and may exercise the following powers and duties:

43 (1) To sue and be sued;

44 (2) To develop and administer a system for the regional disposal of
45 solid waste, domestic septage and/or resource recovery within the district;

46 (3) To authorize any action by motion, resolution, or other official
47 action;

48 (4) To administer and enforce all solid waste or domestic septage regu-
49 lations and standards of the district;

- 1 (5) To determine the location of its main office and branch offices, if
2 any;
- 3 (6) To acquire, hold title to, lease, mortgage or encumber, dispose of,
4 and pledge real and personal property and to acquire, construct, or lease
5 buildings, structures, and solid waste or domestic septage disposal and re-
6 source recovery sites and equipment as may be deemed necessary to fulfill its
7 duties, and to have and exercise the power of eminent domain therefor;
- 8 (7) To sell, convey, lease or dispose of any property, real or personal,
9 with or without competitive bid, upon such terms and conditions and for such
10 consideration as the district board deems appropriate;
- 11 (8) To acquire, construct, operate, and maintain any facilities within
12 the district, and to enter into contracts and agreements, cooperative and
13 otherwise, affecting the affairs of the district, including contracts with
14 the United States of America and any of its agencies or instrumentalities,
15 the state and any of its agencies or instrumentalities, any corporation or
16 person, public or private, any municipality, and any political or governmen-
17 tal subdivision, within or without the state, and to cooperate with any one
18 (1) or more of them in acquiring, constructing, operating, or maintaining a
19 system or facilities within the district; provided, however, that no board
20 of county commissioners, solid waste district board, or any other public au-
21 thority, shall use compulsory means, including flow control, to limit the
22 private sector from competing;
- 23 (9) To acquire, maintain, and operate, as an incident to solid waste
24 disposal or domestic septage, electrical cogeneration facilities, to sell
25 electricity to any person or entity, and to enter into contracts therefor;
- 26 (10) To receive moneys and property from participating counties and to
27 receive gifts, grants, and donations from any person or entity, to expend the
28 same for the purposes of the district, to pledge the same for the payment of
29 any indebtedness, to deposit moneys in accordance with the public depository
30 laws of the state, and to invest moneys of the district in investments per-
31 mitted under sections 67-1210 and 67-1210A, Idaho Code;
- 32 (11) To borrow money and incur indebtedness, and to evidence the same by
33 notes, warrants, bonds, or other evidence of indebtedness;
- 34 (12) To have the management, control, and supervision of all the busi-
35 ness and affairs of the district;
- 36 (13) To hire an administrator and provide for the compensation of other
37 employees of the district, and to retain agents, engineers and consultants;
- 38 (14) To retain or employ regular legal counsel, and to retain such spe-
39 cial legal counsel as may be deemed necessary;
- 40 (15) To fix and to increase or decrease rates, fees, tolls, or charges
41 for the use or availability of the facilities of the district;
- 42 (16) To adopt rules, regulations, and standards, consistent with state
43 and federal laws and regulations, for the use of the district's system and
44 facilities;
- 45 (17) To maintain civil actions for the abatement of any violation of any
46 of the district's rules, regulations, or standards;
- 47 (18) To insure its property and to enter into contracts for insurance,
48 including, but not limited to, liability insurance;

1 (19) To exercise all or any part or combination of the powers set forth
2 in this chapter, and to do all things necessary or incidental to the proper
3 operation of this chapter.

4 SECTION 8. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 July 1, 2025.