

IN THE SENATE

SENATE BILL NO. 1147, As Amended, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO HIGHWAYS; AMENDING SECTION 40-105, IDAHO CODE, TO DEFINE
 2 TERMS; AMENDING SECTION 40-113, IDAHO CODE, TO DEFINE A TERM;
 3 AND AMENDING CHAPTER 9, TITLE 40, IDAHO CODE, BY THE ADDITION
 4 OF A NEW SECTION 40-904, IDAHO CODE, TO PROVIDE PROCEDURES FOR
 5 AWARDING DESIGN-BUILD CONTRACTS FOR CERTAIN HIGHWAY PROJECTS,
 6 TO PROVIDE FOR RULES, TO PROVIDE THAT THE DEPARTMENT SHALL NOT
 7 ENTER INTO ANY DESIGN-BUILD CONTRACTS PRIOR TO PROMULGATION
 8 OF RULES, TO PROVIDE FOR CERTAIN LIMITS RELATING TO THE USE OF
 9 DESIGN-BUILD CONTRACTS, TO PROVIDE THAT A PERCENTAGE OF EACH
 10 CONTRACT BE PERFORMED BY THE DESIGN-BUILD FIRM AWARDED THE
 11 CONTRACT; AMENDING SECTION 40-315, IDAHO CODE, TO REVISE THE
 12 DESCRIPTION OF AN ELIGIBLE PROJECT; PROVIDING LEGISLATIVE INTENT;
 13 AND PROVIDING SEVERABILITY.
 14

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

16 SECTION 1. That Section 40-105, Idaho Code, be, and the same is hereby amended to
 17 read as follows:

18 40-105. DEFINITIONS – D. (1) "Department" means the Idaho transportation
 19 department.

20 (2) "Design-build contract" means a single contract between the department and a
 21 design-build firm to furnish the engineering and related design services, labor, material,
 22 supplies, equipment and construction services for the highway project.

23 (3) "Design-build firm" means a sole proprietorship, partnership, limited liability
 24 partnership, joint venture, corporation, any type of limited liability company, professional
 25 corporation or legal entity qualified to design and build highway projects.

26 (4) "Design-build highway project" means the procurement of both the design and
 27 construction of a project in a single contract with a design-build firm capable of providing the
 28 necessary design services and construction.

29 (5) "Director" means the director of the Idaho transportation department.

30 (36) "Displaced person" means any individual, family, business or farm operation which
 31 moves from real property or moves personal property from real property acquired for a program
 32 or project of a state or local agency, in whole or in part, or as the result of a written order of
 33 an acquiring agency to vacate real property for a program or project of a state or local agency,
 34 and, solely for the purposes of section 40-2004, Idaho Code, as a result of a written order of an
 35 acquiring agency to vacate other real property, on which a person conducts a business or farm
 36 operation, for a program or project of any state or local agency.

1 (47) "Draw" means making a cash demand on the proceeds of transportation bonds or
 2 notes issued by the Idaho housing and finance association as it pertains to section 40-718, Idaho
 3 Code.

4 (58) "Dump" means any place or area, not operated as a business, where junk is
 5 deposited, stored or kept.

6 SECTION 2. That Section 40-113, Idaho Code, be, and the same is hereby amended to
 7 read as follows:

8 40-113. DEFINITIONS – L. (1) "Lawfully maintained" means a sign maintained on
 9 private land in accordance with state law and with the consent or acquiescence of the owner, or
 10 his agent, of the property upon which the sign is located.

11 (2) "Licensed contractor" means a person licensed under the provisions of chapter 19,
 12 title 54, Idaho Code.

13 (3) "Local highway technical assistance council" means the public agency created in
 14 chapter 24, title 40, Idaho Code.

15 (34) "Local highway jurisdiction" means a county with jurisdiction over a highway
 16 system, a city with jurisdiction over a highway system, or a highway district.

17 SECTION 3. That Chapter 9, Title 40, Idaho Code, be, and the same is hereby amended
 18 by the addition thereto of a NEW SECTION, to be known and designated as Section 40-904,
 19 Idaho Code, and to read as follows:

20 40-904. CONTRACTS – DESIGN-BUILD. (1) While design/bid/build is the preferred
 21 method of contracting, the department may select design-build firms and award contracts for
 22 design-build highway projects. Design-build highway projects shall be of appropriate size and
 23 scope as determined by the board to encourage maximum competition and participation by
 24 qualified design-build firms. Design-build contracting procedures may be used for projects
 25 only after the board determines that awarding a design-build contract will serve the public
 26 interest. The department shall work with all interested parties and the public in promulgating
 27 rules regarding the solicitation and award of design-build contracts. The department shall not
 28 enter into any design-build contracts prior to promulgation of such rules.

29 (2) No more than twenty percent (20%) of the department's annual highway construction
 30 budget for the state transportation improvement program shall be used for design-build
 31 contracts following the promulgation of rules implementing the solicitation and award of
 32 design-build contracts.

33 (3) No less than thirty percent (30%) of any design-build contract awarded shall be
 34 self-performed by the design-build firm awarded such contract.

35 SECTION 4. That Section 40-315, Idaho Code, be, and the same is hereby amended to
 36 read as follows:

37 40-315. POWERS AND DUTIES – FEDERALLY-FUNDED HIGHWAY PROJECT
 38 FINANCING. (1) In order to address the increasing need for timely improvements to Idaho's
 39 highway transportation infrastructure, the board may:

1 (a) Enter into agreements with the Idaho housing and finance association in connection
 2 with the funding of highway transportation projects qualifying for reimbursement from
 3 federal funds.

4 (b) Approve and recommend federal highway transportation projects to the Idaho
 5 housing and finance association for financing by the association. Such federal highway
 6 transportation projects shall be eligible for federal-aid debt financing under chapter 1,
 7 title 23, United States Code, and approval by the federal highway administration as an
 8 advanced construction (AC) project thereunder. The board shall select and designate such
 9 transportation projects to be funded with bond proceeds from the following list of eligible
 10 projects:

11 ROUTE	PROJECT DESCRIPTION
12 US-95	SH-1 to Canadian border
13 US-95	Garwood to Sagle <u>(with southern termini of the</u>
14	<u>project at approximately Wyoming Avenue and with the</u>
15	<u>northern termini of the project at approximately the south</u>
16	<u>side of Sandpoint)</u>
17 US-95	Worley to Setters
18 US-95	Thorn Creek to Moscow
19 US-95	Smokey Boulder to Hazard Creek
20 SH-16 Ext	South Emmett to Mesa with connection to SH-55
21 SH-16 Ext	I-84 to South Emmett
22 I-84	Caldwell to Meridian
23 I-84	Orchard to Isaacs Canyon
24 US-93	Twin Falls alternate route and new Snake River crossing
25 SH-75	Timmerman to Ketchum
26 US-20	St. Anthony to Ashton
27 US-30	McCammon to Soda Springs

28 (c) On and after July 1, 2008, all allocations of GARVEE bond proceeds shall be the
 29 sole responsibility and duty of the Idaho transportation board. The legislature shall have
 30 authority to approve a total GARVEE bond amount on an annual basis. However, the
 31 Idaho transportation board is directed to allocate bond revenue only among the projects
 32 listed in subsection (1)(b) of this section. In making its funding allocation for projects,
 33 the board shall take into consideration: the cost of the project and whether or not that
 34 project could be financed without bonding; whether the project is necessary to facilitate
 35 the traffic flow on vital transportation corridors; and whether the project is necessary to
 36 improve safety for the traveling public. On and after July 1, 2008, the board shall use

1 due care in selecting projects for bonding and shall balance and coordinate the use of
2 bonding with the use of highway construction moneys.

3 Notwithstanding the provisions of subsection (1)(b) of this section wherein eligible projects are
4 listed for selection and designation by the board, if any of the designated projects are deemed
5 to be ineligible by the board, the board shall have the authority to replace those projects with
6 other projects listed in subsection (1)(b) of this section.

7 (2) Prior to issuance by the Idaho housing and finance association of any bonds or
8 notes to finance highway transportation projects, the board shall certify to the association that
9 sufficient federal transportation funds are available to make any payments required for such
10 bonds or notes.

11 (3) The board shall limit annual, total cumulative debt service and other bond-related
12 expenses as follows:

13 (a) In the 2006 legislative session for the fiscal year 2007 budget, total cumulative
14 debt service and other bond-related expenses on federally-funded highway project
15 financing shall be no more than twenty percent (20%) of annual federal-aid highway
16 apportionments.

17 (b) In the 2007 legislative session for the fiscal year 2008 budget, total cumulative
18 debt service and other bond-related expenses on federally-funded highway project
19 financing shall be no more than twenty percent (20%) of annual federal-aid highway
20 apportionments.

21 (c) In the 2008 legislative session for the fiscal year 2009 budget, total cumulative
22 debt service and other bond-related expenses on federally-funded highway project
23 financing shall be no more than twenty percent (20%) of annual federal-aid highway
24 apportionments.

25 (d) In the 2009 legislative session for the fiscal year 2010 budget, total cumulative
26 debt service and other bond-related expenses on federally-funded highway project
27 financing shall be no more than twenty percent (20%) of annual federal-aid highway
28 apportionments.

29 (e) In the 2010 legislative session for the fiscal year 2011 budget, total cumulative debt
30 service and other bond-related expenses on federally-funded highway project financing
31 shall be no more than thirty percent (30%) of annual federal-aid highway apportionments.

32 (f) Beginning with the 2011 legislative session for the fiscal year 2012 budget, or for any
33 year thereafter, the thirty percent (30%) limit may be exceeded, but only by affirmative
34 action of both the house of representatives and the senate, and with the approval of the
35 governor.

36 (4) In the event the board selects and designates to be funded with bond proceeds any
37 of the transportation projects listed in subsection (1) of this section, and prior to entering
38 into agreements with the Idaho housing and finance association as provided herein, the Idaho
39 transportation department, as part of its annual budget request prepared pursuant to section
40 67-3502, Idaho Code, shall include a request for bonding authority as a separate item of its
41 budget request. This request for bonding authority shall include a list of planned highway
42 transportation projects to be financed with such bond financing during the next succeeding
43 fiscal year.

44 (5) By June 30 of each year, the board shall submit a report to the legislature concerning
45 projects currently under construction using the bond financing as authorized by the provisions

1 of this section, and shall include a list of planned highway transportation projects to be financed
2 with such bond financing during the next succeeding fiscal year.

3 SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that Section
4 4 of this act expand the northern and southern boundaries of the Garwood to Sagle project
5 in the following manner: the southern boundary of the project is expanded to approximately
6 Wyoming Avenue in Hayden and the northern boundary of the project is expanded to
7 approximately the south side of Sandpoint. All prior appropriations and bonding authority
8 authorizations to the Idaho Transportation Department for the Garwood to Sagle project are
9 hereby amended to include expenditures on those portions of the project between Garwood and
10 the southern boundary of the project which is approximately Wyoming Avenue and between the
11 northern boundary of the project which is approximately the south side of Sandpoint.

12 It is further legislative intent that innovative and nontraditional approaches to delivering
13 transportation projects, such as revenue generated via GARVEE bonding and the design and
14 construction of transportation projects via a design-build approach, are necessary to meet future
15 transportation needs of Idaho.

16 SECTION 6. The provisions of this act are hereby declared to be severable and if any
17 provision of this act or the application of such provision to any person or circumstance is
18 declared invalid for any reason, such declaration shall not affect the validity of the remaining
19 portions of this act.