

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 208

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO COUNTY-BASED RENEWABLE ENERGY COMMERCE AUTHORITIES; AMEND-  
2 ING TITLE 70, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 23, TITLE  
3 70, IDAHO CODE, TO AUTHORIZE A COUNTY-BASED RENEWABLE ENERGY COMMERCE  
4 AUTHORITY, TO SET FORTH PURPOSES, TO PROVIDE FOR ESTABLISHMENT AND  
5 ABOLISHMENT, TO PROVIDE FOR COMBINED INTERMODAL AND RENEWABLE ENERGY  
6 AUTHORITIES, TO PROVIDE FOR COMMISSIONERS, TO PROVIDE FOR THE COOP-  
7 ERATION OF COUNTIES, TO SET FORTH GENERAL POWERS OF A COUNTY-BASED  
8 RENEWABLE ENERGY COMMERCE AUTHORITY, TO PROVIDE FOR RULES, POLICIES  
9 AND ORDERS, TO PROVIDE FOR SUPPLEMENTARY POWERS, TO PROVIDE FOR THE  
10 GRANTING OF OPERATION AND USE PRIVILEGES, TO PROVIDE FOR THE DISPOSAL  
11 OF PROPERTY, TO PROVIDE FOR BONDS AND OBLIGATIONS, TO PROVIDE FOR THE  
12 CREATION OF A DEBT SERVICE FUND AND TO SET FORTH PROVISIONS APPLICABLE  
13 TO FEDERAL, STATE AND LOCAL MONEY.  
14

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

16 SECTION 1. That Title 70, Idaho Code, be, and the same is hereby amended  
17 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
18 ter 23, Title 70, Idaho Code, and to read as follows:

19 CHAPTER 23

20 COUNTY-BASED RENEWABLE ENERGY COMMERCE AUTHORITY

21 70-2301. COUNTY-BASED RENEWABLE ENERGY COMMERCE AUTHORITY AUTHO-  
22 RIZED. The county-based renewable energy commerce authority, hereinafter  
23 referred to as the renewable energy authority, is hereby authorized to  
24 acquire, construct, maintain, operate and develop projects that will facil-  
25 itate and support the development of renewable energy facilities, and may be  
26 established according to this chapter in any county.

27 70-2302. PURPOSES -- PUBLIC AND GOVERNMENT FUNCTIONS. The purposes of  
28 a county-based renewable energy authority are to:

29 (1) Promote, stimulate and advance the commerce, economic development  
30 and prosperity of its jurisdiction and of the state;

31 (2) Endeavor to increase the volume of commerce within the jurisdiction  
32 of the county-based renewable energy authority through planning, advertis-  
33 ing, acquisition, establishment, development, construction, improvement,  
34 maintenance, operation, regulation, and protection of renewable energy  
35 projects and other facilities that promote production of energy in an envi-  
36 ronmentally sound manner;

37 (3) Cooperate and act in conjunction with other organizations, either  
38 public or private, in the development of commerce, industry, manufacturing,  
39 services, natural resources, agriculture, livestock, recreation, and other  
40 economic activity in the state; and

1 (4) Support the creation, expansion, modernization, retention and re-  
2 location of new and existing businesses and industries, and assist in and  
3 support the growth of all kinds of economic activity that will tend to pro-  
4 mote commerce and business development, maintain the economic stability and  
5 prosperity of its jurisdiction and of the state.

6 70-2303. ESTABLISHMENT AND ABOLISHMENT. (1) There is hereby created  
7 in each county an independent public body, corporate and politic, to be known  
8 as a local county-based renewable energy commerce authority.

9 (2) No renewable energy authority and no county shall exercise the au-  
10 thority hereafter conferred by this chapter until after the county commis-  
11 sioners, after a public hearing, have adopted a resolution finding that:

12 (a) There are conditions in the county which will be benefited by the  
13 renewable energy authority to further the purposes set forth in section  
14 70-2302, Idaho Code; and

15 (b) The county commissioners have reason to believe that the citizens  
16 of the county are supportive of the renewable energy authority.

17 (3) Upon the county making the findings set forth in subsection (2) of  
18 this section, the renewable energy authority is authorized to transact the  
19 business and exercise the powers hereunder by a board of commissioners to be  
20 appointed or designated as provided in section 70-2304, Idaho Code.

21 (4) After the establishment of a renewable energy authority, any county  
22 may by resolution or ordinance, after a public hearing, abolish the county-  
23 based renewable energy authority provided that the payment of any bonds or  
24 other obligations of the authority shall not be adversely affected by such  
25 action.

26 70-2304. COMBINED INTERMODAL AND RENEWABLE ENERGY AUTHORI-  
27 TIES. County commissioners in exercising the authority set forth in sections  
28 70-2203 and 70-2303, Idaho Code, shall be granted the power to form a  
29 combined intermodal and renewable energy authority with its powers vested  
30 in the commissioners of the single authority. County commissioners may  
31 also form a combined authority with existing authorities. Nothing in this  
32 section shall require county commissioners to combine authorities and may  
33 establish separate authorities as deemed proper.

34 70-2305. COMMISSIONERS. (1) The powers of each authority are vested in  
35 the commissioners thereof. The resolution or ordinance setting forth the  
36 findings as provided in section 70-2303(2), Idaho Code, shall create the au-  
37 thority and shall include provisions for appointing a board of not fewer than  
38 three (3) commissioners for the authority to staggered terms and requiring  
39 bylaws for governance of the authority. A majority of the commissioners of  
40 an authority constitutes a quorum for the purpose of conducting business of  
41 the authority and exercising its powers for all other purposes. Action may  
42 be taken by the renewable energy authority upon a vote of not less than a ma-  
43 jority of the commissioners present for a meeting of the authority.

44 (2) Each local county-based renewable energy authority must elect a  
45 chairman and vice-chairman from among the commissioners at a time and for  
46 terms as set out in the respective resolution or ordinance.

1 (3) A renewable energy authority may employ such other officers,  
2 agents, and employees, permanent or temporary, as it may require. Commis-  
3 sioners shall determine necessary qualifications, duties and compensation  
4 for officers, agents and employees. A renewable energy authority may dele-  
5 gate to one (1) or more of its agents or employees such powers or duties as it  
6 considers proper.

7 (4) A commissioner of a renewable energy authority is entitled to re-  
8 ceive reimbursement for expenses for travel and the discharge of his or her  
9 duties according to the policies of the governing body.

10 (5) For inefficiency or neglect of duty or misconduct in office, a com-  
11 missioner may be removed only after a hearing and after such commissioner has  
12 been given a copy of the charges at least ten (10) days prior to such hearing  
13 and has had the opportunity to be heard in person or by counsel.

14 (6) Each commissioner shall hold office until his successor has been  
15 appointed and has qualified. A certificate of the appointment or reappoint-  
16 ment of any commissioner shall be filed with the clerk of the county and such  
17 certificate shall be conclusive evidence of the due and proper appointment  
18 of such commissioner.

19 70-2306. COOPERATION OF COUNTY. (1) For the purpose of cooperating in  
20 the planning, establishment, construction or operation of a renewable en-  
21 ergy authority or any of its facilities, any governing body of the respective  
22 county for which a renewable energy authority has been created may, upon such  
23 terms, with or without consideration, as it may determine:

24 (a) Dedicate, sell, convey or lease any of its interest in any property  
25 or facility or grant easements, licenses or any other rights or privi-  
26 leges therein to the renewable energy authority;

27 (b) Cooperate with the renewable energy authority in the planning of a  
28 renewable energy authority and its facilities; and

29 (c) Enter into agreements with the renewable energy authority respect-  
30 ing action to be taken by the county pursuant to the provisions of this  
31 section.

32 (2) After a public hearing, any sale, conveyance, lease or agreement  
33 provided for in this section may be made by a public body.

34 70-2307. GENERAL POWERS OF A COUNTY-BASED RENEWABLE ENERGY AUTHOR-  
35 ITY. A renewable energy authority shall have the powers provided to it by a  
36 local governing body including:

37 (1) Have perpetual succession unless abolished as provided in this  
38 chapter;

39 (2) Sue and be sued;

40 (3) Have a seal;

41 (4) Execute contracts and other instruments and take other action that  
42 may be necessary or convenient to carry out the purposes of this chapter;

43 (5) Plan, establish, acquire, develop, construct, purchase, enlarge,  
44 improve, modify, maintain, equip, operate, regulate and protect infrastruc-  
45 ture, utilities and other necessary projects that support and promote the  
46 development and operation of renewable energy facilities or other personal  
47 property necessary or convenient to carry out the purposes of this chapter;

1 (6) Acquire any land or interest in land. All land and other property  
2 and privileges acquired and used by or on behalf of any renewable energy au-  
3 thority must be used for renewable energy authority purposes. The property  
4 of a renewable energy authority acquired or held for the purposes of this  
5 chapter is declared to be public property used for essential public and gov-  
6 ernmental purposes and, effective the date a renewable energy authority ac-  
7 quires title to such property, it shall be exempt from all taxes of the mu-  
8 nicipality, the county, the state or any political subdivision thereof; pro-  
9 vided, that such tax exemption shall terminate when the authority sells or  
10 otherwise disposes of such property for development to a purchaser that is  
11 not a public body entitled to tax exemption with respect to such property. As  
12 specified in this chapter, a port authority may pledge, lease, sell or mort-  
13 gage all or any part of its facilities to secure bonds or for other financing  
14 purposes;

15 (7) Recommend to the county that created it, comprehensive county-  
16 based renewable energy authority zoning regulations in accordance with the  
17 laws of this state and the governing body; and

18 (8) Provide financial and other support to corporations or other busi-  
19 ness entities or organizations under the provisions of Idaho law, whose pur-  
20 pose is to promote, stimulate, develop and advance the economic development  
21 and prosperity of its jurisdiction and of the state and its citizens by stim-  
22 ulating, assisting in and supporting the growth of all kinds of economic ac-  
23 tivity, including the creation, expansion, modernization, retention and re-  
24 location of new and existing businesses and industry in the state, all of  
25 which will tend to promote business development, maintain the economic sta-  
26 bility and prosperity of the state, and thus provide maximum opportunities  
27 for employment and improvement in the standards of living of citizens of the  
28 state.

29 70-2308. RULES, POLICIES AND ORDERS. A renewable energy authority may  
30 adopt, amend and repeal such reasonable rules, policies and orders as it con-  
31 siders necessary for its own administration, management and governance as  
32 well as for the support of any renewable energy facility developed within the  
33 authority. No rule, policy, order or standard prescribed by the renewable  
34 energy authority may be inconsistent with or contrary to any act of the con-  
35 gress of the United States or any law, rule, ordinance or resolution of the  
36 state of Idaho or the local governing body creating the renewable energy au-  
37 thority. The renewable energy authority shall keep on file at the principal  
38 office of the renewable energy authority a copy of all its rules, policies  
39 and orders for public inspection.

40 70-2309. SUPPLEMENTARY POWERS. In addition to the general and special  
41 powers conferred by this chapter, each renewable energy authority may exer-  
42 cise all powers delegated to it by the governing body creating it and pow-  
43 ers incidental to the exercise of such general and special powers contained  
44 herein.

45 70-2310. GRANTING OF OPERATION AND USE PRIVILEGES. In connection with  
46 the operation of renewable energy facilities developed and supported within  
47 a renewable energy authority, the renewable energy authority may:

1 (1) Enter into contracts, leases and other arrangements for terms not  
2 to exceed thirty (30) years:

3 (a) Granting the privilege of using or improving the renewable energy  
4 authority facility or any portion or facility thereof or space therein  
5 for commercial purposes;

6 (b) Conferring the privilege of supplying goods, commodities, services  
7 or facilities at the renewable energy authority facility; and

8 (c) Making available services to be furnished by the renewable energy  
9 authority or its agents at the renewable energy authority facility; and

10 (2) Establish the terms and conditions and fix the charges, rentals or  
11 fees for the privileges or services, which must be reasonable and uniform for  
12 the same class of privilege or service and must be established with due re-  
13 gard to the property and improvements used and the expenses of operation to  
14 the authority.

15 70-2311. PROPERTY -- DISPOSAL. (1) Except as may be limited by the  
16 terms and conditions of any grant, loan or agreement entered into by the re-  
17 newable energy authority, notwithstanding the provisions in title 31, Idaho  
18 Code, a renewable energy authority may, after a public hearing, sell, lease  
19 with a provision containing the right to transfer title or otherwise dispose  
20 of any property or portion of or interest in the renewable energy authority's  
21 facility or property acquired pursuant to this chapter.

22 (2) Notice of the public hearing shall be posted at least fourteen (14)  
23 days prior to the date of the hearing in at least one (1) conspicuous place in  
24 the county to be determined by the commissioners of the authority. A copy of  
25 such notice shall also be published in a daily or weekly newspaper published  
26 within such county in one (1) issue thereof at least fourteen (14) days prior  
27 to the date of the hearing. The place, hour and day of such hearing shall be  
28 specified in the notice.

29 70-2312. BONDS AND OBLIGATIONS. (1) A renewable energy authority may  
30 borrow money for any of its lawful purposes and shall have the power to issue  
31 bonds from time to time in its discretion to finance the undertaking of any  
32 project or purpose under this chapter. Bonds shall be payable out of any rev-  
33 enue of the renewable energy authority, including revenue derived from:

34 (a) Any renewable energy facility;

35 (b) Grants or appropriations from federal, state or local governments;  
36 or

37 (c) Other sources.

38 (2) The bonds may be issued by resolution of the renewable energy au-  
39 thority without any limitation of amount, except that bonds may not be issued  
40 at any time if the total amount of principal and interest to become due in any  
41 year on the bonds and on any then outstanding bonds for which revenue from the  
42 same source is pledged exceeds the amount of revenue to be received in that  
43 year, as estimated in the renewable energy authority order authorizing the  
44 issuance of the bonds. The renewable energy authority shall take all action  
45 necessary and possible to impose, maintain and collect rates, charges and  
46 rentals sufficient to make the revenue from the pledged source in such year  
47 at least equal to the amount of principal and interest due in that year.

1 (3) The bonds may be sold at public or private sale and shall bear in-  
2 terest at such rate or rates as the issuing renewable energy authority re-  
3 spectively shall determine. Except as otherwise provided in this chapter,  
4 any bonds issued pursuant to this chapter by a renewable energy authority  
5 shall be payable as to principal and interest solely from revenue of the re-  
6 newable energy authority or from particular renewable energy facilities be-  
7 ing supported under contract by the renewable energy authority. The bonds  
8 must state on their face the applicable limitations or restrictions regard-  
9 ing the source from which principal and interest are payable. In no circum-  
10 stance shall the bonds be payable with a property tax.

11 (4) Bonds issued by a renewable energy authority pursuant to the provi-  
12 sions of this chapter are declared to be issued for an essential public and  
13 governmental purpose and together with interest thereon and income there-  
14 from shall be exempted from all state and local taxes.

15 (5) For the security of bonds, the renewable energy authority may by  
16 resolution make and enter into any covenant, agreement or indenture and may  
17 exercise any additional powers authorized by a county. The sums required  
18 from time to time to pay principal and interest and to create and maintain a  
19 reserve for the bonds may be paid from any revenue referred to in this chap-  
20 ter, prior to the payment of current costs of operation and maintenance of  
21 the facilities. As further security for the bonds, the renewable energy au-  
22 thority, with the approval of the governing body of the county that created  
23 the authority, may pledge, lease, sell, mortgage or grant a security inter-  
24 est in all or any portion of its facilities and the renewable energy facil-  
25 ities being served by the bonds, whether or not the facilities are financed  
26 by the bonds. The instrument effecting the pledge, lease, sale, mortgage  
27 or security interest may contain any agreements and provisions customarily  
28 contained in instruments securing bonds, as the commissioners of the renew-  
29 able energy authority consider advisable. The provisions must be consistent  
30 with this chapter and are subject to and must be in accordance with the laws  
31 of this state governing mortgages, trust indentures, security agreements or  
32 instruments. The instrument may provide that in the event of a default in  
33 the payment of principal or interest on the bonds or in the performance of  
34 any agreement contained in the proceedings authorizing the bonds or instru-  
35 ment, the payment or performance may be enforced by the appointment of a re-  
36 ceiver in equity. The receiver may collect charges, rents or fees and may ap-  
37 ply the revenue from the mortgaged property or collateral in accordance with  
38 the provisions of the instrument.

39 (6) Nothing in this section may be construed to limit the use of renew-  
40 able energy authority revenue, including federal, state and local money to  
41 make grants and loans or to otherwise provide financial and other support  
42 to a private renewable energy authority, including corporations and busi-  
43 ness entities operating under the provisions of Idaho law. The credit of the  
44 state, county or municipal governments or their agencies or authorities may  
45 not be pledged to provide financial support to the renewable energy author-  
46 ity.

47 70-2313. DEBT SERVICE FUND. A renewable energy authority may create a  
48 debt service fund and accumulate therein a sum determined by the governing

1 body, together with interest thereon, for the use, repairs, maintenance and  
2 capital outlays of a county-based renewable energy authority.

3         70-2314. FEDERAL, STATE AND LOCAL MONEY. A renewable energy authority  
4 may accept, receive, receipt for and spend federal, state and local money and  
5 other public or private money made available by grant, loan or appropriation  
6 to accomplish any of the purposes of this chapter and according to conditions  
7 of the grant, loan or appropriation. All federal money accepted under this  
8 section must be accepted and spent by the authority upon terms and conditions  
9 prescribed by the United States and consistent with state law. All state  
10 money accepted under this section must be accepted and spent by the renew-  
11 able energy authority upon terms and conditions prescribed by the state. All  
12 county money accepted under this section must be accepted and spent by the  
13 renewable energy authority upon terms and conditions prescribed by the gov-  
14 erning county.