

IN THE SENATE

SENATE BILL NO. 1060

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO INTERMODAL COMMERCE AUTHORITIES; AMENDING THE HEADING FOR  
2 CHAPTER 22, TITLE 70, IDAHO CODE, TO READ "COUNTY-BASED OR CITY-BASED  
3 INTERMODAL COMMERCE AUTHORITY"; AMENDING SECTION 70-2201, IDAHO CODE,  
4 TO PROVIDE FOR AUTHORITY OF A CITY-BASED INTERMODAL COMMERCE AUTHORITY  
5 AND TO PROVIDE THAT AN INTERMODAL AUTHORITY MAY BE ESTABLISHED IN ANY  
6 INCORPORATED CITY; AMENDING SECTION 70-2202, IDAHO CODE, TO PROVIDE FOR  
7 PURPOSES OF A CITY-BASED INTERMODAL AUTHORITY AND TO REVISE A PROVISION  
8 RELATING TO A PURPOSE OF A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY;  
9 AMENDING SECTION 70-2203, IDAHO CODE, TO CREATE IN EACH COUNTY AND IN  
10 EACH INCORPORATED CITY AN INTERMODAL COMMERCE AUTHORITY, TO PROVIDE  
11 THAT NO CITY SHALL EXERCISE CERTAIN AUTHORITY UNTIL AFTER CITY COUNCIL  
12 MEMBERS HAVE ADOPTED A RESOLUTION WITH CERTAIN FINDINGS, TO PROVIDE  
13 THAT UPON A CITY MAKING SUCH FINDINGS THE INTERMODAL COMMERCE AUTHORITY  
14 IS AUTHORIZED TO TRANSACT CERTAIN BUSINESS AND EXERCISE CERTAIN POWERS,  
15 TO PROVIDE THAT AN INTERMODAL AUTHORITY MAY BE ABOLISHED AND TO PROVIDE  
16 THAT ANY INTERMODAL AUTHORITY EXISTING AS OF A CERTAIN DATE IS VALI-  
17 DATED; AMENDING SECTION 70-2204, IDAHO CODE, TO PROVIDE THAT THE POWERS  
18 OF EACH INTERMODAL AUTHORITY ARE VESTED IN COMMISSIONERS, TO PROVIDE  
19 THAT EACH INTERMODAL AUTHORITY MUST ELECT A CHAIRMAN AND VICE-CHAIRMAN  
20 AND TO REVISE PROVISIONS RELATING TO A CERTAIN FILING; AMENDING SECTION  
21 70-2205, IDAHO CODE, TO PROVIDE THAT A CITY FOR WHICH AN INTERMODAL  
22 AUTHORITY HAS BEEN CREATED MAY DEDICATE, SELL, CONVEY OR LEASE CERTAIN  
23 INTERESTS OR GRANT EASEMENTS, LICENSES OR OTHER RIGHTS OR PRIVILEGES TO  
24 THE INTERMODAL AUTHORITY, MAY COOPERATE WITH THE INTERMODAL AUTHORITY  
25 IN CERTAIN PLANNING AND MAY ENTER INTO CERTAIN AGREEMENTS WITH THE IN-  
26 TERMODAL AUTHORITY; AMENDING SECTION 70-2206, IDAHO CODE, TO PROVIDE  
27 THAT AN INTERMODAL AUTHORITY SHALL HAVE THE POWERS PROVIDED TO IT BY A  
28 LOCAL COUNTY OR CITY GOVERNING BODY AND TO REVISE A PROVISION RELATING  
29 TO SUCH POWERS; AMENDING SECTION 70-2210, IDAHO CODE, TO PROVIDE THAT A  
30 CERTAIN NOTICE BE POSTED IN A CITY AND PUBLISHED IN A NEWSPAPER WITHIN  
31 SUCH CITY; AMENDING SECTION 70-2211, IDAHO CODE, TO PROVIDE THAT THE IN-  
32 TERMODAL AUTHORITY MAY EXERCISE CERTAIN POWERS AUTHORIZED BY A CITY FOR  
33 THE SECURITY OF CERTAIN BONDS, TO PROVIDE THAT THE INTERMODAL AUTHORITY  
34 WITH THE APPROVAL OF THE GOVERNING BODY OF THE CITY THAT CREATED THE AU-  
35 THORITY MAY PLEDGE, LEASE, SELL, MORTGAGE OR GRANT A SECURITY INTEREST  
36 IN ALL OR ANY PORTION OF ITS INTERMODAL AUTHORITY; AND AMENDING SECTION  
37 70-2213, IDAHO CODE, TO PROVIDE THAT CERTAIN CITY MONEY ACCEPTED BY AN  
38 INTERMODAL AUTHORITY MUST BE ACCEPTED AND SPENT BY THE INTERMODAL AU-  
39 THORITY UPON TERMS AND CONDITIONS PRESCRIBED BY THE GOVERNING CITY.  
40

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

42 SECTION 1. That the Heading for Chapter 22, Title 70, Idaho Code, be,  
43 and the same is hereby amended to read as follows:

CHAPTER 22  
 COUNTY-BASED OR CITY-BASED INTERMODAL COMMERCE AUTHORITY

SECTION 2. That Section 70-2201, Idaho Code, be, and the same is hereby amended to read as follows:

70-2201. COUNTY-BASED OR CITY-BASED INTERMODAL COMMERCE AUTHORITY AUTHORIZED. ~~The~~ A county-based or city-based intermodal commerce authority, hereinafter referred to as the intermodal authority, is hereby authorized to acquire, construct, maintain, operate, develop and regulate rail, truck, and other on-land transfer and terminal facilities, buildings, warehouses and storage facilities, manufacturing, industrial and economic development facilities and services, reasonably incident to a modern, efficient and competitive land-based port, and may be established according to this chapter in any county or incorporated city.

SECTION 3. That Section 70-2202, Idaho Code, be, and the same is hereby amended to read as follows:

70-2202. PURPOSE -- PUBLIC AND GOVERNMENT FUNCTIONS. The purposes of a county-based or city-based intermodal authority are to:

- (1) Promote, stimulate and advance the commerce, economic development, and prosperity of its jurisdiction and of the state;
- (2) Endeavor to increase the volume of commerce within the jurisdiction of the ~~county-based intermodal commerce authority~~ or city through planning, advertising, acquisition, establishment, development, construction, improvement, maintenance, operation, regulation, and protection of transportation, storage, and other facilities that promote economic handling of commerce;
- (3) Cooperate and act in conjunction with other organizations, either public or private, in the development of commerce, industry, manufacturing, services, natural resources, agriculture, livestock, recreation, and other economic activity in the state; and
- (4) Support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industries, and assist in and support the growth of all kinds of economic activity that will tend to promote commerce and business development, maintain the economic stability and prosperity of its jurisdiction and of the state.

SECTION 4. That Section 70-2203, Idaho Code, be, and the same is hereby amended to read as follows:

70-2203. ESTABLISHMENT AND ABOLISHMENT. (1) There is hereby created in each county and incorporated city an independent public body, corporate and politic, to be known as an local ~~county-based~~ intermodal commerce authority.

(2) No intermodal commerce authority and no county or city shall exercise the authority hereafter conferred by this chapter until after the county commissioners or city council members, after a public hearing, have adopted a resolution finding that:

1 (a) There are conditions in the county or city which will be benefited  
2 by the intermodal commerce authority to further the purposes set forth  
3 in section 70-2202, Idaho Code; and

4 (b) The county commissioners or city council members have reason to be-  
5 lieve that the citizens of the county or city are supportive of the in-  
6 termodal commerce authority.

7 (3) Upon the county or city making the findings set forth in subsec-  
8 tion (2) of this section, the intermodal commerce authority is authorized to  
9 transact the business and exercise the powers hereunder by a board of commis-  
10 sioners to be appointed or designated as provided in section 70-2204, Idaho  
11 Code.

12 (4) After the establishment of an intermodal authority, any county or  
13 city may by resolution or ordinance, after a public hearing, abolish the  
14 ~~county-based~~ intermodal ~~commerce~~ authority provided that the payment of  
15 any bonds or other obligations of the intermodal authority shall not be ad-  
16 versely affected by such action.

17 (5) Notwithstanding any other provision of this section to the con-  
18 trary, any ~~county-based~~ intermodal authority existing as of July 1, 2006, is  
19 hereby validated.

20 SECTION 5. That Section 70-2204, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 70-2204. COMMISSIONERS. (1) The powers of each intermodal authority  
23 are vested in the commissioners thereof. The resolution or ordinance set-  
24 ting forth the findings as provided in section 70-2203(2), Idaho Code, shall  
25 create the authority and shall include provisions for appointing a board of  
26 not fewer than three (3) commissioners for the authority to staggered terms  
27 and requiring bylaws for governance of the authority. A majority of the com-  
28 missioners of an authority constitutes a quorum for the purpose of conduct-  
29 ing business of the authority and exercising its powers for all other pur-  
30 poses. Action may be taken by the intermodal authority upon a vote of not  
31 less than a majority of the commissioners present for a meeting of the au-  
32 thority.

33 (2) Each ~~local county-based~~ intermodal ~~commerce~~ authority must elect  
34 a chairman and vice-chairman from among the commissioners at a time and for  
35 terms as set out in the respective resolution or ordinance.

36 (3) An intermodal authority may employ such other officers, agents, and  
37 employees, permanent or temporary, as it may require. Commissioners shall  
38 determine necessary qualifications, duties and compensation for officers,  
39 agents and employees. An intermodal authority may delegate to one (1) or  
40 more of its agents or employees such powers or duties as it considers proper.

41 (4) A commissioner of an intermodal authority is entitled to receive  
42 reimbursement for expenses for travel and the discharge of his or her duties  
43 according to the policies of the governing body.

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

48 (6) Each commissioner shall hold office until his successor has been  
49 appointed and has qualified. A certificate of the appointment or reappoint-

1 ment of any commissioner shall be filed with the clerk of the county or the  
 2 city clerk, as appropriate, and such certificate shall be conclusive evi-  
 3 dence of the due and proper appointment of such commissioner.

4 SECTION 6. That Section 70-2205, Idaho Code, be, and the same is hereby  
 5 amended to read as follows:

6 70-2205. COOPERATION OF COUNTY OR CITY. (1) For the purpose of cooper-  
 7 ating in the planning, establishment, construction or operation of an inter-  
 8 modal authority or any of its facilities, any governing body of the respec-  
 9 tive county or city for which an intermodal authority has been created may,  
 10 upon such terms, with or without consideration, as it may determine:

11 (a) Dedicate, sell, convey or lease any of its interest in any property  
 12 or facility or grant easements, licenses, or any other rights or privi-  
 13 leges therein to the intermodal authority;

14 (b) Cooperate with the intermodal authority in the planning of an in-  
 15 termodal authority and its facilities; and

16 (c) Enter into agreements with the intermodal authority respecting ac-  
 17 tion to be taken by the county or city pursuant to the provisions of this  
 18 section.

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

21 SECTION 7. That Section 70-2206, Idaho Code, be, and the same is hereby  
 22 amended to read as follows:

23 70-2206. GENERAL POWERS OF A COUNTY-BASED OR CITY-BASED INTERMODAL  
 24 COMMERCE AUTHORITY. An intermodal authority shall have the powers provided  
 25 to it by a local county or city governing body including:

26 (1) Have perpetual succession unless abolished as provided in this  
 27 chapter;

28 (2) Sue and be sued;

29 (3) Have a seal;

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

32 (5) Plan, establish, acquire, develop, construct, purchase, enlarge,  
 33 improve, modify, maintain, equip, operate, regulate and protect transporta-  
 34 tion, storage, or other facilities or other personal property necessary or  
 35 convenient to carry out the purposes of this chapter;

36 (6) Acquire any land or interest in land. All land and other property  
 37 and privileges acquired and used by or on behalf of any intermodal authority  
 38 must be used for intermodal authority purposes. The property of an inter-  
 39 modal authority acquired or held for the purposes of this chapter is declared  
 40 to be public property used for essential public and governmental purposes  
 41 and, effective the date an intermodal authority acquires title to such prop-  
 42 erty, it shall be exempt from all taxes of the municipality, the county, the  
 43 state or any political subdivision thereof; provided, that such tax exemp-  
 44 tion shall terminate when the authority sells or otherwise disposes of such  
 45 property for development to a purchaser that is not a public body entitled to  
 46 tax exemption with respect to such property. As specified in this chapter, a

1 port authority may pledge, lease, sell, or mortgage all or any part of its fa-  
2 cilities to secure bonds or for other financing purposes;

3 (7) Recommend to the county or city that created it, comprehensive  
4 county-based or city intermodal commerce authority zoning regulations in  
5 accordance with the laws of this state and the county or city governing body;  
6 and

7 (8) Provide financial and other support to corporations or other busi-  
8 ness entities or organizations under the provisions of Idaho law, whose pur-  
9 pose is to promote, stimulate, develop and advance the economic development  
10 and prosperity of its jurisdiction and of the state and its citizens by stim-  
11 ulating, assisting in, and supporting the growth of all kinds of economic  
12 activity, including the creation, expansion, modernization, retention, and  
13 relocation of new and existing businesses and industry in the state, all of  
14 which will tend to promote business development, maintain the economic sta-  
15 bility and prosperity of the state, and thus provide maximum opportunities  
16 for employment and improvement in the standards of living of citizens of the  
17 state.

18 SECTION 8. That Section 70-2210, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 70-2210. PROPERTY -- DISPOSAL. (1) Except as may be limited by the  
21 terms and conditions of any grant, loan or agreement entered into by the  
22 intermodal authority, notwithstanding the provisions in title 31, Idaho  
23 Code, an intermodal authority may, after a public hearing, sell, lease with  
24 a provision containing the right to transfer title or otherwise dispose of  
25 any transportation, storage or other facility or other property or portion  
26 of or interest in the intermodal authority's facility or property acquired  
27 pursuant to this chapter.

28 (2) Notice of the public hearing shall be posted at least fourteen (14)  
29 days prior to the date of the hearing in at least one (1) conspicuous place  
30 in the county or city to be determined by the commissioners of the authority.  
31 A copy of such notice shall also be published in a daily or weekly newspaper  
32 published within such county or city in one (1) issue thereof at least four-  
33 teen (14) days prior to the date of the hearing. The place, hour and day of  
34 such hearing shall be specified in the notice.

35 SECTION 9. That Section 70-2211, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 70-2211. BONDS AND OBLIGATIONS. (1) An intermodal authority may bor-  
38 row money for any of its lawful purposes and shall have the power to issue  
39 bonds from time to time in its discretion to finance the undertaking of any  
40 project or purpose under this chapter. Bonds shall be payable out of any rev-  
41 enue of the intermodal authority, including revenue derived from:

- 42 (a) Any transportation, storage or other facility;
- 43 (b) Grants or appropriations from federal, state or local governments;
- 44 or
- 45 (c) Other sources.

46 (2) The bonds may be issued by resolution of the intermodal authority  
47 without any limitation of amount, except that bonds may not be issued at any

1 time if the total amount of principal and interest to become due in any year  
2 on the bonds and on any then outstanding bonds for which revenue from the same  
3 source is pledged exceeds the amount of revenue to be received in that year,  
4 as estimated in the intermodal authority order authorizing the issuance of  
5 the bonds. The intermodal authority shall take all action necessary and pos-  
6 sible to impose, maintain, and collect rates, charges and rentals sufficient  
7 to make the revenue from the pledged source in such year at least equal to the  
8 amount of principal and interest due in that year.

9 (3) The bonds may be sold at public or private sale and shall bear inter-  
10 est at such rate or rates as the issuing intermodal authority respectively  
11 shall determine. Except as otherwise provided in this chapter, any bonds is-  
12 sued pursuant to this chapter by an intermodal authority shall be payable as  
13 to principal and interest solely from revenue of the intermodal authority or  
14 from particular transportation, storage or other facilities of the inter-  
15 modal authority. The bonds must state on their face the applicable limita-  
16 tions or restrictions regarding the source from which principal and interest  
17 are payable. In no circumstance shall the bonds be payable with a property  
18 tax.

19 (4) Bonds issued by an intermodal authority pursuant to the provisions  
20 of this chapter are declared to be issued for an essential public and gov-  
21 ernmental purpose and together with interest thereon and income therefrom,  
22 shall be exempted from all state and local taxes.

23 (5) For the security of bonds, the intermodal authority may by reso-  
24 lution make and enter into any covenant, agreement or indenture and may ex-  
25 ercise any additional powers authorized by a county or city. The sums re-  
26 quired from time to time to pay principal and interest and to create and main-  
27 tain a reserve for the bonds may be paid from any revenue referred to in this  
28 chapter, prior to the payment of current costs of operation and maintenance  
29 of the facilities. As further security for the bonds, the intermodal au-  
30 thority, with the approval of the governing body of the county or city that  
31 created the authority, may pledge, lease, sell, mortgage, or grant a secu-  
32 rity interest in all or any portion of its ~~land-based port~~ intermodal author-  
33 ity, transportation, storage or other facilities, whether or not the facili-  
34 ties are financed by the bonds. The instrument effecting the pledge, lease,  
35 sale, mortgage, or security interest may contain any agreements and provi-  
36 sions customarily contained in instruments securing bonds, as the commis-  
37 sioners of the intermodal authority consider advisable. The provisions must  
38 be consistent with this chapter and are subject to and must be in accordance  
39 with the laws of this state governing mortgages, trust indentures, security  
40 agreements, or instruments. The instrument may provide that in the event of  
41 a default in the payment of principal or interest on the bonds or in the per-  
42 formance of any agreement contained in the proceedings authorizing the bonds  
43 or instrument, the payment or performance may be enforced by the appoint-  
44 ment of a receiver in equity. The receiver may collect charges, rents or fees  
45 and may apply the revenue from the mortgaged property or collateral in accor-  
46 dance with the provisions of the instrument.

47 (6) Nothing in this section may be construed to limit the use of inter-  
48 modal authority revenue, including federal, state and local money to make  
49 grants and loans or to otherwise provide financial and other support to a  
50 private intermodal authority, including corporations and business entities

1 operating under the provisions of Idaho law. The credit of the state, county  
2 or municipal governments or their agencies or authorities may not be pledged  
3 to provide financial support to the intermodal authority.

4 SECTION 10. That Section 70-2213, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 70-2213. FEDERAL, STATE AND LOCAL MONEY. An intermodal authority may  
7 accept, receive, receipt for, and spend federal, state and local money and  
8 other public or private money made available by grant, loan or appropriation  
9 to accomplish any of the purposes of this chapter and according to condi-  
10 tions of the grant, loan or appropriation. All federal money accepted under  
11 this section must be accepted and spent by the authority upon terms and con-  
12 ditions prescribed by the United States and consistent with state law. All  
13 state money accepted under this section must be accepted and spent by the in-  
14 termodal authority upon terms and conditions prescribed by the state. All  
15 county or city money accepted under this section must be accepted and spent  
16 by the intermodal authority upon terms and conditions prescribed by the gov-  
17 erning county or city.