

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 94

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO LOCAL IMPROVEMENT DISTRICTS; AMENDING SECTION 50-1707, IDAHO
2 CODE, TO ESTABLISH PROVISIONS RELATING TO A FINDING BY THE COUNCIL THAT
3 COSTS IMPOSED UPON PROPERTY OWNERS MUST BE EXCEEDED BY BENEFITS DE-
4 RIVED BY PROPERTY OWNERS IN INCREASED PROPERTY VALUE, TO PROVIDE THAT
5 NO PROPERTY ASSESSMENT SHALL EXCEED THE MEASURABLE BENEFITS DERIVED BY
6 A PROPERTY OWNER AND TO PROVIDE THAT A PROPERTY OWNER MAY APPEAL A FINAL
7 ASSESSMENT; AMENDING SECTION 50-1709, IDAHO CODE, TO REVISE PROVISIONS
8 RELATING TO THE FILING OF A PROTEST, TO REVISE PROVISIONS RELATING TO
9 THE COUNCIL'S CONSIDERATION OF PROTESTS, TO PROVIDE AN EXCEPTION TO
10 THE FINALITY OF A COUNCIL DECISION, TO REVISE PROVISIONS RELATING TO
11 WHEN THE COUNCIL MAY DELETE IMPROVEMENTS OR PROPERTY ORIGINALLY CONTEM-
12 PLATED IN THE NOTICE, TO REVISE PROVISIONS RELATING TO WHEN THE COUNCIL
13 SHALL NOT PROCEED WITH WORK PROTESTED, TO PROVIDE FOR AN APPEAL AT A
14 LATER HEARING, TO REVISE PROVISIONS RELATING TO WRITTEN PROTESTS AND
15 WHEN THE GOVERNING BOARD SHALL NOT BE ALLOWED TO PROCEED WITH THE CRE-
16 ATION OF THE DISTRICT FOR A PERIOD OF TIME, TO REVISE MATTERS THAT THE
17 CITY COUNCIL OR BOARD OF COUNTY COMMISSIONERS SHALL TAKE INTO CONSIDER-
18 ATION IN CONSIDERING THE CREATION OF THE PROPOSED DISTRICT AND TO MAKE
19 TECHNICAL CORRECTIONS; AND AMENDING SECTION 50-1710, IDAHO CODE, TO
20 REVISE PROVISIONS RELATING TO CERTAIN FINDINGS AND TO REVISE PROVISIONS
21 RELATING TO A METHOD OF ASSESSMENT.
22

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

24 SECTION 1. That Section 50-1707, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 50-1707. RESOLUTION OF INTENTION TO CREATE DISTRICT. Upon the filing
27 of a petition or upon initiation of a district by council action, the council
28 shall at a regular or special meeting adopt a resolution giving notice of its
29 intention to create the district, to make the improvements and to levy as-
30 sessments to pay all or a part thereof. The notice shall contain:

31 (a) A description of the boundaries of the district to be created and
32 the property to be assessed, sufficient to inform the owners thereof that
33 their property is to be assessed.

34 (b) A general description of the improvements contemplated together
35 with an estimate of the total cost and expenses of the same and a statement
36 of the percentage or other calculation of the total cost and expenses of the
37 improvements which will be paid from a levy of assessments on property bene-
38 fited and the percentage or calculation of the total costs and expenses which
39 will be paid from the general funds of the municipality or from such other
40 source specified in the notice.

41 (c) A statement that the costs and expenses of the improvements will
42 be assessed against the lots and lands specially benefited by such improve-

1 ments, except as provided in section 50-1705, Idaho Code, and included in
 2 the district to be created according to a front foot method, or a square foot
 3 method, or a combination thereof, or in proportion to the benefits derived
 4 to such property by said improvements, or by another method agreed to by all
 5 property owners to be assessed, and the council shall state the method so de-
 6 termined in said notice.

7 (d) A finding by the council that, whichever method of assessment or
 8 combination of methods are selected, costs imposed upon the property owners
 9 in the district must be exceeded by benefits derived by the property owners
 10 in increased property value. No property assessment shall exceed the mea-
 11 asurable benefits derived by the property owner. A property owner may appeal
 12 to the district court any final assessment if the costs imposed exceed the
 13 benefits derived.

14 (e) A statement that the district is to be a modified district within
 15 the meaning of this act, if the same is true, and the boundaries of such modi-
 16 fied district shall be given.

17 (ef) A statement of the time within which and the place at which
 18 protests shall be filed and of the time and place at which the council will
 19 conduct a public hearing to consider such protests.

20 SECTION 2. That Section 50-1709, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 50-1709. PROTESTS AND HEARING. Any owner of property to be assessed in
 23 the proposed local improvement district described in the notice of intention
 24 shall have the right, in advance of the hearing and up to thirty (30) days
 25 after the hearing, to file in writing a protest to the creation of the dis-
 26 trict or making any other objections in relation thereto. At the date, time
 27 and place specified ~~in~~ after the notice of intention to create the district,
 28 and after consideration of protests filed after the hearing, the council
 29 shall in open and public session consider all protests which have been filed
 30 in writing ~~in advance of the hearing,~~ and the hearing may be adjourned from
 31 time to time to a fixed future time and place for the same until all such
 32 protests have been heard. The decision of the council as to all protests
 33 shall be conclusive and final, ~~and if it~~ unless the costs and project designs
 34 change from what is disclosed and represented to the property owners within
 35 the district. If the council should so determine, the council may delete any
 36 improvements or any property which had originally been contemplated in the
 37 said notice. If owners of more than ~~two-thirds (2/3)~~ fifty percent (50%) of
 38 the property to be assessed protest any of the proposed improvements which
 39 affect their property, the council shall not proceed further with the work
 40 so protested ~~unless a majority of the members of the full council shall vote~~
 41 ~~to proceed with such work.~~ The vote on the hereinafter mentioned ordinance
 42 creating the improvement district shall constitute the vote as to whether or
 43 not the council will proceed. Any property owner who fails to file a protest
 44 within the time specified, or having filed one withdraws said protest, shall
 45 be deemed to have waived any objection to the creation of the district, the
 46 making of the improvements, and the inclusion of his property in the dis-
 47 trict. Such waiver shall not preclude his right to object to or appeal the
 48 amount of the assessment at the later hearing provided for such purpose.

1 In cases where the creation of a local improvement district has been
 2 proposed by the governing board of an entity other than a city council or
 3 board of county commissioners, and where written protests are filed and
 4 ~~sixty more than fifty~~ more than fifty percent (~~650~~50%) of the ~~resident owners or the owners~~
 5 ~~of two-thirds (2/3) of the lots and lands subject to assessment~~ within such
 6 proposed improvement district have submitted or signed such protests, the
 7 governing board of the governmental entity proposing the local improvement
 8 district shall not be allowed to proceed with the creation of the district
 9 for a period of one hundred eighty (180) days. During this one hundred eighty
 10 (180) day period, the city council shall act as a review board for as much
 11 of the proposed district as is situated within the boundaries of the city,
 12 and the board of county commissioners shall act as a review board for that
 13 portion of the proposed local improvement district as is situated within the
 14 unincorporated portion of the county. As a review board, the city council
 15 or board of county commissioners shall review the record of the proposal,
 16 including conformance with procedural provisions of law. The city council
 17 or board of county commissioners shall also evaluate the necessity or desirability
 18 of the proposed district, and shall take into consideration the
 19 creation of the proposed local improvement district as it relates to the
 20 following:

21 (a) ~~¶~~The health, safety and welfare of the residents of the proposed
 22 district, or of persons having the necessity to travel through the district;
 23 ~~and~~

24 (b) ~~¶~~The financial impact of the creation and implementation of the ob-
 25 jectives of the proposed district upon the property owners within the pro-
 26 posed district, especially in light of projects recently undertaken or con-
 27 templated for the near future within the district; and

28 (c) The benefits derived by the property owners. Such benefits must ex-
 29 ceed the costs imposed by the district, under the procedures provided for in
 30 section 50-1707(d), Idaho Code.

31 After its evaluation, the city council shall approve, modify or reject
 32 the proposal for the creation of a local improvement district for as much of
 33 the proposed district as is situated within the boundaries of the city, and
 34 the board of county commissioners shall approve, modify or reject the pro-
 35 posal for the creation of a local improvement district for as much of the
 36 proposed district as is situated within the unincorporated portion of the
 37 county.

38 SECTION 3. That Section 50-1710, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 50-1710. ORDINANCE CREATING IMPROVEMENT DISTRICT AND PROCEDURE FOR
 41 CONSTRUCTION BIDS. If, after the hearing on the creation of the district,
 42 the council finds (a) that the district will be for the best interest of
 43 the property affected and the municipality, (b) that there is reasonable
 44 probability that the obligations of such district will be paid, and (c) the
 45 value cost of the improvements assessed to the property owners is exceeded
 46 by the enhanced property value to each parcel within the proposed district
 47 as required by the provisions of section 50-1707(d), Idaho Code, including
 48 the proposed improvements, is sufficient, it shall then enact an ordinance
 49 providing for such improvements and creating a local improvement district

1 to be called "Local Improvement District No. for, Idaho," which
2 shall include all of the property within said district in accordance with
3 the findings of the council, and said ordinance shall set forth the bound-
4 aries of the district, provide the improvements which shall be made, and
5 state that the total cost and expenses thereof shall be assessed according
6 to the percentage or calculation hereinbefore mentioned on all benefited
7 property in the district by using the method of assessment contemplated in
8 the notice of intention subject to any variation therefrom as a result of
9 the council's determining that the benefits to be derived by certain lots
10 or parcels of property warrant such variations, provided that the method of
11 assessment complies with the provisions of section 50-1707(d), Idaho Code.
12 The council may either purchase, acquire or construct the improvements. The
13 council shall appoint an engineer. If the council elects to construct the
14 improvements, the engineer shall have prepared the necessary plans and spec-
15 ifications for the construction work ordered.

16 Except as hereinafter otherwise provided, the council shall authorize
17 the advertisement for bids therefor by giving notice calling for sealed bids
18 in accordance with the provisions of chapter 28, title 67, Idaho Code.

19 Any acquisition, purchase or construction contract made by a municipal-
20 ity for any improvements authorized by this code shall be made by the council
21 in the name of the municipality upon such terms of payment as shall be fixed
22 by the council. The contract shall be authorized by resolution empowering
23 the authorized officer of the municipality to execute the contract. The res-
24 olution need not set out the contract in full but it shall be sufficient if
25 the resolution refers to a copy of the contract on file in the office of the
26 clerk where it is available for public inspection.

27 Any provision in this local improvement district code notwithstand-
28 ing, if any municipality shall elect to exercise the powers herein granted
29 jointly with any other public agency or agencies as authorized by the pro-
30 visions of section 67-2328, Idaho Code, the improvements as contemplated
31 within the local improvement district may be constructed jointly and as part
32 of a larger project with such other agency or agencies upon the letting of a
33 single contract after compliance with the required bidding procedure for any
34 Idaho public agency jointly participating in the work.