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LEGISLATURE OF THE STATE OF IDAHO
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1 AN ACT
2 RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 40-1310, IDAHO CODE, TO AU-
3 THORIZE A HIGHWAY DISTRICT BOARD OF COMMISSIONERS TO ADOPT AN IMPACT FEE
4 SCHEDULE BY RESOLUTION AND TO PROVIDE REQUIREMENTS AND EXCEPTIONS AND
5 TO DEFINE A TERM; AND DECLARING AN EMERGENCY.

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

7 SECTION 1. That Section 40-1310, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 40-1310. POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS. (1) The
10 commissioners of a highway district have exclusive general supervision and
11 jurisdiction over all highways and public rights-of-way within their high-
12 way system, with full power to construct, maintain, repair, acquire, pur-
13 chase and improve all highways within their highway system, whether directly
14 or by their own agents and employees or by contract. Except as otherwise pro-
15 vided in this chapter in respect to the highways within their highway system,
16 a highway district shall have all of the powers and duties that would by law
17 be vested in the commissioners of the county and in the district directors
18 of highways if the highway district had not been organized. Where any high-
19 way within the limits of the highway district has been designated as a state
20 highway, then the board shall have exclusive supervision, jurisdiction and
21 control over the designation, location, maintenance, repair and reconstruc-
22 tion of it. The highway district shall have power to manage and conduct the
23 business and affairs of the district; establish and post speed and other reg-
24 ulatory signs; make and execute all necessary contracts; have an office and
25 employ and appoint agents, attorneys, officers and employees as may be re-
26 quired, and prescribe their duties and fix their compensation. Highway dis-
27 trict commissioners and their agents and employees have the right to enter
28 upon any lands to make a survey, and may locate the necessary works on the
29 line of any highways on any land which may be deemed best for the location.

30 (2) The highway district shall also have the right to acquire either
31 by purchase, or other legal means, all lands and other property necessary
32 for the construction, use, maintenance, repair and improvement of highways
33 in their system. The highway district may change the width or location, or
34 straighten lines of any highway in their system, and if in the construct-
35 ing, laying out, widening, changing, or straightening of any highways, it
36 shall become necessary to take private property, the district director of
37 highways, with the consent and on order of the highway district commission-
38 ers, shall cause a survey of the proposed highway to be made, together with
39 an accurate description of the lands required. He shall endeavor to agree
40 with each owner of property for the purchase of a right-of-way over the lands
41 included within the description. If the director is able to agree with the
42 owner of the lands, the highway district commissioners may purchase the land

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1 and pay for it out of the funds of the highway district, and the lands pur-
2 chased shall then be conveyed to the highway district for the use and purpose
3 of highways.

4 (3) Whenever the director of highways shall be unable to agree with any
5 person for the purchase of land, or that person shall be unknown or a nonres-
6 ident of the county in which the highway district is situated, or a minor, or
7 an insane or incompetent person, the director shall have the right, subject
8 to the order of the highway district commissioners, to begin action in the
9 name of the highway district in the district court of the county in which the
10 district is situated, to condemn the land necessary for the right-of-way for
11 the highway, under the provisions of chapter 7, title 7, Idaho Code. An order
12 of the highway district commissioners entered upon its minutes that the land
13 sought to be condemned is necessary for a public highway and public use shall
14 be prima facie evidence of the fact.

15 (4) The highway district has the power to contract for and pay out any
16 special rewards and bounties as may appear expedient or useful in securing
17 proper highway construction and maintenance, and to accept, on behalf of the
18 district, aid or contributions in the construction or maintenance of any
19 highway; to construct or repair, with the consent of the corporate author-
20 ities of any city within the district, any highway within a city, upon the
21 division of the cost as may be agreed upon; or to join with the state or any
22 body politic or political subdivision, or with any person in the construc-
23 tion or repair of any highway and to contract for an equitable division of the
24 cost; and all counties, cities, highway districts and other bodies politic
25 and political subdivisions are authorized to contract with any highway dis-
26 trict acting through its highway district commissioners in exercise of the
27 powers granted.

28 (5) The highway district has the power to receive highway petitions
29 and lay out, alter, create and abandon and vacate public highways and public
30 rights-of-way within their respective districts under the provisions of
31 sections 40-202, 40-203 and 40-203A, Idaho Code. Provided however, when a
32 public highway, public street and/or public right-of-way is part of a plat-
33 ted subdivision which lies within an established county/city impact area
34 or within one (1) mile of a city if a county/city impact area has not been
35 established, consent of the city council of the affected city, when the city
36 has a functioning street department with jurisdiction over the city streets,
37 shall be necessary prior to the granting of acceptance or vacation of said
38 public street or public right-of-way by the highway district board of com-
39 missioners.

40 (6) The highway district is empowered to take conveyance or other as-
41 surances, in the name of the highway district, for all property acquired by
42 it under the provisions of this chapter for the purposes of this title. The
43 highway district may institute and maintain any and all actions and proceed-
44 ings, suits at law and in equity, necessary or proper in order to carry out
45 the provisions of this chapter, or to enforce, maintain, protect or preserve
46 any and all rights, privileges and immunities provided in this chapter. In
47 all courts, actions, suits or proceedings, the highway district may sue, ap-
48 pear and defend, in person or by attorneys, and in the name of the highway
49 district.

1 (7) The highway district is empowered to hold, use, acquire, sell, man-
2 age, occupy and possess property. The highway district may create highway
3 subdistricts, which must be carefully and distinctly defined and described.
4 Highway subdistricts may be revised or modified by the highway district com-
5 missioners, as changes in conditions demand.

6 (8) The highway district board of commissioners shall have the exclu-
7 sive general supervisory authority over all public highways, public streets
8 and public rights-of-way under their jurisdiction, with full power to es-
9 tablish design standards, establish use standards, pass resolutions and
10 establish regulations in accordance with the provisions of title 49, Idaho
11 Code, and control access to said public highways, public streets and public
12 rights-of-way.

13 (9) By July 1, 2000, and every five (5) years thereafter, the highway
14 district board of commissioners shall have published in map form and made
15 readily available the location of all public rights-of-way under its juris-
16 diction. Any highway district board of commissioners may be granted an ex-
17 tension of time with the approval of the legislature by adoption of a concur-
18 rent resolution.

19 (10) In its discretion, the highway district may purchase equipment at
20 a public auction, if the highway district board of commissioners has made a
21 finding that such equipment may be purchased at a competitive price. Prior
22 to the public auction, the highway district commissioners shall, at a regu-
23 lar meeting of the district or at a special hearing, notice of which is pub-
24 lished in accordance with the provisions of section 40-206, Idaho Code, re-
25 view any documentation available as to the items to be auctioned at the pub-
26 lic sale and determine which items the district may bid on, and establish a
27 maximum amount the district will bid for such item.

28 (11) (a) Notwithstanding any provision of chapter 82, title 67, Idaho
29 Code, to the contrary, any highway district board of commissioners may
30 by resolution establish an impact fee schedule for new residential and
31 commercial developments for the improvement of highways and public
32 rights-of-way within the highway district's jurisdiction. For the
33 purpose of this subsection, the term "new residential and commercial
34 developments" means the erection of structures that previously did not
35 exist and that will provide additional residential housing or addi-
36 tional commercial space within the highway district.

37 (b) The impact fee schedule shall be established by resolution passed
38 by a majority of the board of highway district commissioners. The im-
39 act fee resolution shall meet the requirements for development impact
40 fee ordinances set forth in chapter 82, title 67, Idaho Code, unless
41 otherwise provided in this subsection.

42 (c) The highway district board of commissioners shall notify the gov-
43 ernment entity or entities charged with issuing building permits in the
44 highway district of the impact fee. When a building permit is issued,
45 the issuing entity shall collect the impact fee set forth in the reso-
46 lution and remit it to the highway district imposing the fee. The high-
47 way district shall utilize such moneys for the construction of new high-
48 ways, roads, and bridges necessitated by new growth.

- 1 (d) The definitions, requirements, and procedures for development im-
2 act fees shall apply to highway district impact fees, except that im-
3 act fees by highway districts may not be imposed for:
 - 4 (i) Remodeling, rehabilitation, expansion, or other improve-
5 ments to an existing structure or for rebuilding a damaged struc-
6 ture in the case of residential developments. In the case of
7 commercial developments, highway district impact fees may not
8 be imposed for the activities described in this subparagraph un-
9 less there is more than a de minimis increase in service units, as
10 defined in section 67-8203, Idaho Code, that increases service
11 demand. If impact fees are imposed in such a case, only the net
12 increase between the old and new demand may be imposed;
13 (ii) New subdivisions of three (3) service units or less, except
14 that if a majority of the board of highway commissioners believes
15 the developer to be splitting development projects in bad faith in
16 order to take advantage of this exception, this subparagraph shall
17 not apply to such development projects; or
18 (iii) The installation of an accessory dwelling unit on a residen-
19 tial property.

20 SECTION 2. An emergency existing therefor, which emergency is hereby
21 declared to exist, this act shall be in full force and effect on and after its
22 passage and approval.