

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 14

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXING DISTRICTS; AMENDING SECTION 67-3901, IDAHO CODE, TO DE-
2 FINE A TERM; REPEALING SECTION 67-3902, IDAHO CODE, RELATING TO THE
3 EXERCISE OF POWERS REGARDING FEDERAL BANKRUPTCY LAWS; AMENDING CHAPTER
4 39, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-3902, IDAHO
5 CODE, TO PROVIDE FOR THE ABILITY OF A MUNICIPALITY TO PROCEED UNDER FED-
6 ERAL BANKRUPTCY LAWS; REPEALING SECTION 67-3903, IDAHO CODE, RELATING
7 TO BANKRUPTCY PETITION BY A TAXING DISTRICT; REPEALING SECTION 67-3904,
8 IDAHO CODE, RELATING TO A BANKRUPTCY RESOLUTION BY A TAXING DISTRICT;
9 REPEALING SECTION 67-3905, IDAHO CODE, RELATING TO A BANKRUPTCY READ-
10 JUSTMENT PLAN; REPEALING SECTION 67-3906, IDAHO CODE, RELATING TO A
11 BANKRUPTCY DECREE; REPEALING SECTION 67-3907, IDAHO CODE, RELATING TO
12 A BANKRUPTCY READJUSTMENT PLAN; REPEALING SECTION 67-3908, IDAHO CODE,
13 RELATING TO BANKRUPTCY VALIDATION; REPEALING SECTION 67-3909, IDAHO
14 CODE, RELATING TO EFFECT AND APPLICATION; REPEALING SECTION 67-3910,
15 IDAHO CODE, RELATING TO SEPARABILITY; AMENDING SECTION 67-8908, IDAHO
16 CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORREC-
17 TION; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICA-
18 TION.
19

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

21 SECTION 1. That Section 67-3901, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 67-3901. ~~"TAXING DISTRICT MUNICIPALITY"~~ DEFINED. For the purpose of
24 this act chapter, a ~~"taxing district municipality"~~ is hereby defined to be a
25 "taxing district" ~~as described in chapter IX of an act of Congress entitled~~
26 ~~"An act to establish a uniform system of bankruptcy throughout the United~~
27 ~~States," approved July 1, 1898, as amended. Said act of Congress and acts~~
28 ~~amendatory and supplementary thereto, as the same may be amended from time to~~
29 ~~time, are herein referred to as the "Federal Bankruptcy Statute.", political~~
30 ~~subdivision, public agency, or instrumentality of the state of Idaho that~~
31 ~~has power to incur indebtedness either through the action of its governing~~
32 ~~body or through the action of the governing body of any county, municipality,~~
33 ~~district, agency, or instrumentality in which the entity is located.~~

34 SECTION 2. That Section 67-3902, Idaho Code, be, and the same is hereby
35 repealed.

36 SECTION 3. That Chapter 39, Title 67, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 67-3902, Idaho Code, and to read as follows:

39 67-3902. AUTHORIZATION UNDER FEDERAL BANKRUPTCY LAW. A municipality
40 is hereby authorized to proceed under all applicable federal bankruptcy laws

1 enacted by the congress of the United States for the benefit and relief of mu-
2 nicipalities. The officials and governing body of a municipality are autho-
3 rized, at their discretion, to adopt all proceedings and to take any and all
4 acts necessary or convenient to fully avail the municipality of the federal
5 bankruptcy laws.

6 SECTION 4. That Section [67-3903](#), Idaho Code, be, and the same is hereby
7 repealed.

8 SECTION 5. That Section [67-3904](#), Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 6. That Section [67-3905](#), Idaho Code, be, and the same is hereby
11 repealed.

12 SECTION 7. That Section [67-3906](#), Idaho Code, be, and the same is hereby
13 repealed.

14 SECTION 8. That Section [67-3907](#), Idaho Code, be, and the same is hereby
15 repealed.

16 SECTION 9. That Section [67-3908](#), Idaho Code, be, and the same is hereby
17 repealed.

18 SECTION 10. That Section [67-3909](#), Idaho Code, be, and the same is hereby
19 repealed.

20 SECTION 11. That Section [67-3910](#), Idaho Code, be, and the same is hereby
21 repealed.

22 SECTION 12. That Section 67-8908, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 67-8908. POWERS. (1) The authority shall have the following powers,
25 which are hereby declared to be necessary to enable the authority to carry
26 out and effectuate the purposes and provisions of this chapter, together
27 with all powers incidental thereto or necessary for the performance thereof:

28 (a) To have perpetual succession as a body politic and corporate;
29 (b) To adopt bylaws for the regulation of its affairs and the conduct of
30 its business;

31 (c) To sue and be sued and to prosecute and defend, at law or in equity,
32 in any court having jurisdiction of the subject matter and of the par-
33 ties;

34 (d) To have and to use a corporate seal and to alter the same at plea-
35 sure;

36 (e) To maintain an office at such place or places as it may designate;

37 (f) To make and execute contracts and all other instruments necessary
38 or convenient for the exercise of its powers and functions under this
39 chapter;

40 (g) To acquire, whether by purchase, gift, grant, bequest, devise, ex-
41 change, eminent domain or otherwise, own, hold, improve, lease, trans-
42 fer, assign, pledge and dispose of, any real or personal property or any

1 interest therein necessary or convenient in connection with any facil-
2 ity or its purposes under this chapter; provided however, that the power
3 of eminent domain is limited to only those purposes and participating
4 utilities as authorized by section 7-701, Idaho Code;

5 (h) To acquire, construct, reconstruct, renovate, improve, replace,
6 maintain, repair, manage, operate, lease as lessee or lessor, and reg-
7 ulate any facility; to enter into contracts for any and all of such pur-
8 poses and for the acquisition and management of fuel supplies, provided
9 such is reasonably necessary for the operation and maintenance of any
10 facility; to enter into contracts and agreements to manage risks asso-
11 ciated with the purchase and sale of energy and energy commodities, pro-
12 vided such is reasonably necessary for the operation and maintenance of
13 any facility; and shall designate one (1) or more qualified participat-
14 ing utilities as agent or agents of the authority, as agreed to among the
15 participating utilities, with respect to the foregoing;

16 (i) To sell, lease or otherwise provide by contract to one (1) or more
17 participating utilities the services, output or product provided by any
18 or all of the facilities undertaken by the authority upon such terms and
19 conditions as the authority and the participating utilities shall deem
20 proper, and to establish, charge, collect and revise from time to time
21 such rents, fees and charges for such services, output or product as
22 provided for in this chapter;

23 (j) To borrow money and to issue bonds for any of the purposes described
24 in this chapter, to issue refunding bonds and to enter into contracts
25 and agreements determined by the authority to be necessary or desirable
26 to manage its debt service and interest costs;

27 (k) To establish rules and regulations for the use of facilities and to
28 designate a participating utility as its agent, to establish rules and
29 regulations for the use of the facilities undertaken or operated by such
30 participating utility;

31 (l) To employ or contract for consulting engineers, architects, at-
32 torneys, accountants, construction and financial experts, superinten-
33 dents, managers, and such other employees and agents as may be necessary
34 in its judgment and to fix their compensation;

35 (m) To enter into contracts, agreements or other transactions with and
36 accept grants and the cooperation of the United States or any agency
37 thereof or any state or any agency or governmental subdivision thereof,
38 in furtherance of the purposes of this chapter including, but not lim-
39 ited to, the development, maintenance, operation, and financing of any
40 facility and to do any and all things necessary in order to avail itself
41 of such aid and cooperation;

42 (n) To receive and accept aid or contributions from any source of money,
43 property, labor, or other things of value, to be held, used, and ap-
44 plied to carry out the purposes of this chapter subject to such condi-
45 tions upon which such grants and contributions may be made, including,
46 but not limited to, gifts or grants from any department or agency of the
47 United States or any state for any purpose consistent with this chapter;

48 (o) To assign and pledge all or any part of its revenues and income and
49 to mortgage or otherwise encumber any or all of its facilities and the
50 site or sites thereof, whether then owned or thereafter acquired, for

1 the benefit and security of the holders of bonds issued to finance such
2 facilities or any portion thereof;

3 (p) To make loans to any participating utility to finance the cost of
4 any facilities in accordance with an agreement between the authority
5 and such participating utility;

6 (q) To make secured or unsecured loans to a participating utility to
7 refinance obligations and indebtedness incurred for facilities under-
8 taken and completed prior to or after the enactment of this chapter when
9 the authority finds that such financing is in the public interest and
10 either alleviates the financial hardship upon the participating util-
11 ity or is in connection with other financing by the authority for such
12 participating utility or may be expected to result in a cost-effective
13 delivery of electricity to the consumers served by the participating
14 utility, or any combination thereof;

15 (r) To charge to and equitably apportion its administrative costs and
16 expenses incurred in the exercise of the powers and duties conferred by
17 this chapter among the participating utilities that have entered into
18 contracts with the authority;

19 (s) To procure insurance against any loss in connection with its prop-
20 erty and other assets in such amounts and from such insurers as it deems
21 desirable and to self-insure against such risks as it shall deem to be
22 reasonable;

23 (t) To invest any funds not needed for immediate use or disbursement,
24 including any funds held in reserve, in:

25 (i) Bonds, notes and other obligations of the United States or any
26 agency or instrumentality thereof and other securities secured by
27 such bonds, notes or other obligations;

28 (ii) Money market funds which are insured or the assets of which
29 are limited to obligations of the United States or any agency or
30 instrumentality thereof;

31 (iii) Time certificates of deposit and savings accounts;

32 (iv) Commercial paper which, at the time of its purchase, is rated
33 in the highest category by a nationally recognized rating service;

34 (v) Property or securities in which the state treasurer may in-
35 vest funds in the state treasury pursuant to section 67-1210,
36 Idaho Code; and

37 (vi) With respect to any funds representing bond proceeds or
38 amounts pledged to the payment of bonds, such other investments as
39 may be specified in a bond resolution or trust indenture securing
40 bonds of the authority;

41 (u) To participate in cooperative ventures with any agencies or organi-
42 zations in order to provide affordable and reliable energy to the resi-
43 dents of the state;

44 (v) To undertake and finance renewable energy generation projects de-
45 veloped by an independent power producer;

46 (w) To finance or refinance the cost of conservation measures as pro-
47 vided in section 67-8926, Idaho Code; and

48 (x) To do all things necessary and convenient to carry out the purposes
49 of this chapter.

1 (2) Notwithstanding any other provision of this chapter, the authority
2 shall have no power to:

3 (a) Acquire the operating property of any investor-owned, private, co-
4 operative, municipal or other utility by the exercise of the power of
5 eminent domain;

6 (b) Provide financing for the acquisition of the operating property of
7 any such utility by or under threat of eminent domain, in either case un-
8 less such utility consents in writing to the acquisition; or

9 (c) Deliver retail electricity or related retail products or services
10 to any ultimate consumer, whether in violation of the Idaho electric
11 supplier stabilization act or otherwise.

12 (3) The authority is not a "~~taxing district, municipality~~" as defined in
13 section 67-3901, Idaho Code, and, for ~~so~~ as long as any bonds are outstand-
14 ing or any contract, agreement or transaction between the authority and a
15 participating utility is in effect, the authority shall not have the power
16 and shall not be authorized to be a debtor under the U.S. bankruptcy code,
17 title 11 U.S.C., or any other bankruptcy, insolvency, moratorium, liquida-
18 tion, dissolution or wind-down law.

19 SECTION 13. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after its
21 passage and approval, and retroactively to January 1, 2021.