

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 45
POLLUTION CONTROL FINANCING

31-4501. SHORT TITLE. This act may be referred to and cited as the "Idaho Pollution Control Financing Act."

[31-4501, added 1975, ch. 52, sec. 1, p. 105.]

31-4502. DECLARATION OF NECESSITY AND PURPOSE -- LIBERAL CONSTRUCTION. (a) The legislature of the state of Idaho hereby finds:

(i) that environmental damage seriously endangers the public health and welfare;

(ii) that such environmental damage results from air, water, and other resource pollution and from public water supply, solid waste disposal, noise and other environmental problems;

(iii) that to reduce, control and prevent such pollution and problems, quality standards have been established necessitating the employment of antipollution devices, equipment and facilities, and stringent time schedules have been and will be imposed for compliance with such standards;

(iv) that it is desirable to provide methods of financing the costs of acquiring, constructing, installing and equipping facilities designed for environmental pollution control, including the acquisition of all technological facilities and equipment necessary or convenient for pollution control; and

(v) that the method of financing provided in this act is therefore in the public interest and serves a public purpose in protecting and promoting the health and welfare of the citizens of this state by reducing, controlling and preventing environmental damage.

(b) It is the purpose of this act, as more specifically described in later sections, to authorize counties to acquire, construct, install, equip, own, finance and lease environmental pollution control facilities, including the acquisition of all technological facilities and equipment necessary or convenient for pollution control, to be financed for, or to be sold, leased or otherwise disposed of to persons, associations or corporations other than municipal corporations or other political subdivisions, to the end that the counties may be able to promote the health and welfare of the people of this state; it is not intended by this act that any county shall itself be authorized to operate any industrial or commercial enterprise or any such environmental pollution control facilities.

(c) This act shall be liberally construed to accomplish the intentions expressed herein.

[31-4502, added 1975, ch. 52, sec. 2, p. 105.]

31-4503. DEFINITIONS. In this act, unless the context otherwise clearly requires, the terms used herein shall have the meanings ascribed to them as follows:

(a) "Board" means the board of county commissioners of any county.

(b) "County" means any county of the state of Idaho.

(c) "Person" means any individual, partnership, copartnership, firm, company, corporation (including public utilities), association, joint stock company, trust, estate, or any other legal entity, or their legal representatives, agents or assigns, other than municipal corporations or other political subdivisions.

(d) "Pollution" means any form of environmental pollution including, but not limited to, water pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation contamination, or noise pollution as determined by the various standards prescribed by this state or the federal government.

(e) "Pollution control facility" or "facilities" means all technological facilities and equipment necessary or convenient for pollution control, including any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment or any combination thereof, and all real and personal property deemed necessary therewith, having to do with or the end purpose of which is, reducing, controlling or preventing pollution.

(f) "Project costs" as applied to pollution control facilities financed under the provisions of this act means and includes all or any part of the sum total of all reasonable or necessary costs incidental to the acquisition, construction, installation and equipping of such pollution control facilities including without limitation the cost of studies and surveys; plans, specifications, architectural and engineering services; legal, organizations, marketing or other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair or remodeling of existing buildings and all other necessary and incidental expenses including an initial bond and interest reserve together with interest on revenue bonds issued to finance such pollution control facilities to a date six (6) months subsequent to the estimated date of completion.

(g) "Finance" or "financing" means the issuing of revenue bonds pursuant to authority herein contained by a county for the purpose of using substantially all of the proceeds to pay all or any part of project costs or to reimburse any person for all or any part of project costs; provided, that title to or in any pollution control facility so financed may at all times remain in a person other than the county, and in such case the revenue bonds of the county shall be secured by a pledge of one (1) or more notes, debentures, bonds or other obligations of such person.

[31-4503, added 1975, ch. 52, sec. 3, p. 105.]

31-4504. POWERS. Each county shall have the following powers together with all powers incidental thereto or necessary for the performance thereof:

(a) To determine the location of any pollution control facility, whether upon real estate owned by the county or by any person, and the manner of construction of any pollution control facility to be financed under the provisions of this act, and to acquire, construct, install, equip, own, finance, lease and dispose of the same, to enter into contracts for any and all of such purposes, to designate a person as its agent to determine the location and manner of construction of a pollution control facility undertaken by such person under the provisions of this act and as agent of the county, to acquire, construct, install, equip, own, lease and dispose of the same and to enter into contracts for any and all of such purposes;

(b) To lease or sell to a person any or all of the pollution control facilities upon such terms and conditions as the board shall deem proper, and to charge and collect rent or other payments therefor and to terminate any such lease or sales agreement upon the failure of the lessee or other contracting party to comply with any of the obligations thereof; and to include in any such lease, if desired, provisions that the lessee thereof shall have options to renew the term of the lease for such period or periods and at such rent as shall be determined by the board and/or to purchase any or all of the pollution control facilities for a nominal amount or otherwise or that at or prior to the payment of all of the revenue bonds issued by the county for the financing of such pollution control facilities the county may convey any or all of the pollution control facilities to the lessee or lessees thereof with or without consideration;

(c) To issue revenue bonds and to refund the same, all as provided for in this act;

(d) Generally to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and services furnished or to be furnished by any pollution control facility or any portion thereof and to contract with any person, firm or corporation or other body public or private in respect thereof;

(e) To employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, manager and such other employees and agents as may be necessary in its judgment and to fix their compensation;

(f) To refund outstanding obligations incurred by any person to finance the cost of a pollution control facility including obligations incurred for pollution control facilities undertaken and completed prior to or after the enactment of this act when the authority finds that such financing is in the public interest;

(g) To receive and to pledge as security for the payment of any bonds issued hereunder, any lease, purchase agreement, note, debenture, bond or other obligation by or on behalf of any person;

(h) To make loans to any person for the purpose of paying or reimbursing project costs in accordance with an agreement between the county and such person; and

(i) To do all things necessary and convenient to carry out the purposes of this act.

No county shall have power to operate any pollution control facility as a business other than as a lessor. Any lease of a pollution control facility entered into pursuant to the provisions of this act shall be for a term not shorter than the longest maturity of any revenue bonds issued to finance such pollution control facility or a portion thereof and shall provide for rentals adequate to pay the principal of and interest and premiums, if any, on such revenue bonds as the same fall due and to create and maintain such reserves and accounts for depreciation, if any, as the board in its discretion shall determine to be necessary.

In the event a member of a board of county commissioners is an officer, employee or stockholder of the "person" as defined in section [31-4503\(c\)](#), Idaho Code, with whom the county proposes to contract under the provisions of the Idaho pollution control financing act with respect to the acquisition and financing of pollution control facilities and the issuance of revenue bonds, such member shall disclose such status and interest to the board of

county commissioners at a public meeting and shall abstain from voting on all matters before the board of county commissioners related thereto.

[31-4504, added 1975, ch. 52, sec. 4, p. 105; am. 1978, ch. 265, sec. 1, p. 590.]

31-4505. BONDS. All revenue bonds authorized to be issued hereunder may be issued as serial bonds or as term bonds or a combination of both types. All revenue bonds so issued shall be payable solely out of the revenues and receipts derived by the county from the pollution control facilities provided with the proceeds thereof as may be designated in the proceedings of the board under which the revenue bonds shall be authorized to be issued, provided that such revenue bonds shall not be secured by the full faith and credit or the taxing power of the state of Idaho or of any political subdivision thereof, and such limitation shall be plainly printed on the face of each such revenue bond. Such revenue bonds may be executed and delivered by the county at any time and from time to time in such amounts, may be in such form and denominations and of such terms and maturities, may be in fully registered form or in bearer form registrable either as to principal or interest or both, may bear such conversion privileges and be payable in such installments and at such time or times not exceeding forty (40) years from the date thereof, may be payable at such time or times and at such place or places whether within or without the state of Idaho and evidenced in such manner, may bear interest at such rate or rates per annum without regard to any interest rate limitation appearing in any other law, may be executed by the manual or facsimile signatures of such officers of the county, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the board under which the revenue bonds shall be authorized to be issued. If deemed advisable by the board there may be retained in the proceedings under which any such revenue bonds are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings, but nothing herein contained shall be construed to confer on any county the right or option to redeem any such revenue bonds except as may be provided in the proceedings under which they shall be issued. Any revenue bonds issued hereunder may be sold at public or private sale for such price and in such manner and from time to time as may be determined by the board, and the county may pay, but solely and only from the proceeds of any such revenue bonds, all expenses, premiums and commissions which the board may deem necessary or advantageous in connection with the issuance thereof. Issuance by any county of one (1) or more series of revenue bonds for one (1) or more purposes under this act shall not preclude it from issuing other revenue bonds in connection with the same pollution control facility or any other pollution control facility or for any other purpose hereunder, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge made for any prior issue of revenue bonds. Any revenue bonds issued hereunder at any time outstanding may at any time and from time to time be refunded by the issuance of refunding bonds in such amount as the board may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any premiums, commissions, service fees and other expenses necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have matured or shall thereafter mature, either

by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same pollution control facility or separate pollution control facilities or for any other purpose hereunder, and regardless of whether or not the revenue bonds proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise. All such revenue bonds and the interest coupons applicable thereto, if any, are hereby made and shall be construed to be negotiable instruments.

The resolution authorizing the issuance of any revenue bonds hereunder and the execution of an indenture as security therefor shall be published one (1) time in a newspaper of general circulation in the county. Any such indenture, or other instrument authorized in such resolution to be executed, may be incorporated as an exhibit to such resolution but need not be published as part of the resolution. For a period of thirty (30) days from the date of such publication any person in interest may file suit in any court of competent jurisdiction to contest the regularity, formality or legality of the proceedings authorizing the revenue bonds, or the legality of such resolution and its provisions or of the revenue bonds to be issued pursuant thereto and the provisions securing the revenue bonds. After the expiration of such thirty (30) day period no one shall have any right of action to contest the validity of the revenue bonds or of such proceedings or of such resolution or the validity of the pledges and covenants made in such proceedings and resolution and the revenue bonds and the provisions for their payment shall be conclusively presumed to be legal and no court shall thereafter have authority to inquire into such matters.

[31-4505, added 1975, ch. 52, sec. 5, p. 105.]

31-4506. SECURITY FOR REVENUE BONDS. The principal of, and interest and premiums, if any, on any revenue bonds issued hereunder shall be secured by a pledge of the revenues and receipts out of which the same shall be made payable and may also be payable out of proceeds from the sale of the pollution control facility acquired with proceeds of such revenue bonds, but shall not be secured by the full faith and credit or the taxing power of the state of Idaho or of any political subdivision thereof. The resolution under which the revenue bonds are authorized to be issued and any indenture executed as security for the revenue bonds, may contain any agreements and provisions respecting the maintenance of the properties covered thereby, the fixing and collection of rents for any portions thereof leased by the county to others, the creation and maintenance of special funds from such revenues and the rights and remedies available in the event of default, including the designation of a trustee, which may be a bank or trust company, the principal place of business of which may be within or without the state of Idaho, all as the board shall deem advisable and not in conflict with the provisions hereof. Each pledge and agreement made for the benefit or security of any of the revenue bonds issued hereunder shall continue effective until the principal of, and interest and premiums, if any, on the revenue bonds for the benefit of which the same were made shall have been fully paid or provision for such payment duly made. In the event of default in such payment or in any agreements of the county made as a part of the contract under which the revenue bonds were issued, whether contained in the proceedings authorizing the

revenue bonds or in any indenture executed as security therefor, said payment or agreement may be enforced by suit, mandamus or the appointment of a receiver in equity, or any one (1) or more of said remedies.

[31-4506, added 1975, ch. 52, sec. 6, p. 105.]

31-4507. PAYMENT OF REVENUE BONDS -- NONLIABILITY OF STATE AND COUNTY. Revenue bonds passed under the provisions of this act shall not be deemed to constitute a debt or liability of the state or of any political subdivision, but shall be payable solely from the funds herein provided therefor. The issuance of revenue bonds under the provisions of this act shall not, directly or indirectly or contingently, obligate the state or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. Nothing in this act shall be construed to authorize the creation of a debt of the state or of the county authorizing the issuance of such revenue bonds within the meaning of the constitution or statutes of the state of Idaho and all revenue bonds issued pursuant to the provisions of this act are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the resolution authorizing their issuance or in any indenture executed as security therefor, and that such revenue bonds are not secured by the full faith and credit or the taxing power of the state of Idaho or of any political subdivision thereof. Neither the state nor the county authorizing the issuance thereof shall in any event be liable for the payment of the principal or of interest or premiums, if any, on any such revenue bonds. No breach of any such pledge, obligation or agreement may impose any pecuniary liability upon the state or the county authorizing the issuance thereof or any charge upon their general credit or against their taxing power.

[31-4507, added 1975, ch. 52, sec. 7, p. 105.]

31-4508. TAXATION. To the extent permitted by the constitution the property acquired by any county pursuant to this act is exempt from taxation except that during any period that such property is leased by or title thereto is retained under an installment purchase contract by such county taxes shall be payable to the same extent as if it were owned by such lessee and such installment purchaser and such taxes shall be paid by such lessee or installment purchaser.

[31-4508, added 1975, ch. 52, sec. 8, p. 105.]

31-4509. CONVEYANCE OF TITLE TO LESSEE. At or prior to the time the principal of and interest on any revenue bonds issued hereunder to provide a particular pollution control facility have been fully paid, the county may execute such deeds and conveyances as are necessary and required to convey its right, title and interest in such pollution control facilities to any person, provided that if such conveyance is made prior to when the revenue bonds are fully paid, the county has determined that adequate provision has been made for the payment of principal and interest on the bonds as they become due.

[31-4509, added 1975, ch. 52, sec. 9, p. 105.]

31-4510. POWERS NOT RESTRICTED -- LAW COMPLETE IN ITSELF -- ELECTION. Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which any county might otherwise have under any laws of this state, but shall be construed as cumulative of any such powers. No proceedings, notice or approval shall be required for the issuance of any revenue bonds or any instrument as security therefor, except that no revenue bonds shall be issued hereunder until the board shall by resolution adopted by a majority of the board determine that the interest of the county and the public interest or necessity demand the acquisition, construction, installation and equipment of pollution control facilities to be financed for or to be sold, leased or otherwise disposed of to persons, associations or corporations other than municipal corporations or other political subdivisions, whereupon the board shall order the submission of the proposition of issuing such revenue bonds for the purposes set forth in said resolution to the vote of the qualified electors of the county as defined in section [34-104](#), Idaho Code, at an election to be held subject to the provisions of section [34-106](#), Idaho Code. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the revenue bonds are proposed to be issued, the amount of principal of the revenue bonds, and the source of revenues pledged to the payment of said bonds.

Such resolution shall also fix the date upon which such election shall be held, subject to the provisions of section [34-106](#), Idaho Code, the manner of holding the same, which shall be in accordance with the provisions of [title 34](#), Idaho Code, and the method of voting for or against the issuance of the revenue bonds. Such resolution shall designate the precincts and polling places. The county clerk shall appoint for each polling place, from each precinct from the electors thereof, the officers of such election, one (1) of whom shall act as clerk, who shall constitute a board of election for each polling place. The description of precincts may be made by reference to any order or orders of the board, or by reference to any previous order or resolution of the board or by detailed description of such precincts. Precincts established by the board may be consolidated for elections held hereunder. A notice of election shall be published by the county clerk once a week for two (2) consecutive weeks, the first publication shall be not less than twelve (12) days prior to the election, and the last publication of which shall be at least five (5) days prior to the date set for said election, in the newspaper of general circulation within the county in which legal notices of the county are customarily published, and no other or further notice of such election or publication of the names of election officers or of the precincts or polling places need be given or made.

The county clerk shall conduct the election in the manner prescribed by law for the holding of county elections to the extent the same shall apply. The returns thereof shall be canvassed and the results thereof declared as provided in [chapter 12, title 34](#), Idaho Code.

In the event that it shall appear from said returns that a majority of the qualified electors of the county who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the county shall thereupon be authorized to issue and sell such revenue bonds of the county, all for the purpose or purposes and object or objects provided

for in the proposition submitted hereunder and in the resolution therefor, and in the amount so provided.

[31-4510, added 1975, ch. 52, sec. 10, p. 105; am. 1978, ch. 265, sec. 2, p. 592; am. 1995, ch. 118, sec. 45, p. 465; am. 2009, ch. 341, sec. 22, p. 1006.]

31-4511. INVESTMENT OF FUNDS. Each county issuing revenue bonds hereunder may invest any funds in bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of the United States of America; in certificates of deposit or time deposits constituting direct obligations of any bank as defined by the Idaho Bank Act, provided, however, that investments may be made only in those certificates of deposit or time deposits in banks which are insured by the Federal Deposit Insurance Corporation, if then in existence; or in short term discount obligations of the Federal National Mortgage Association. Any such securities may be purchased at the offering or market price thereof at the time of such purchase.

[31-4511, added 1975, ch. 52, sec. 11, p. 105.]

31-4512. BONDS ELIGIBLE FOR INVESTMENT. The state and all counties and cities and other municipal corporations, political subdivisions and public bodies, and public officers of any thereof, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, monies or other funds belonging to them or within their control in any revenue bonds issued pursuant to this act.

[31-4512, added 1975, ch. 52, sec. 12, p. 105.]

31-4513. EXEMPTION FROM CONSTRUCTION AND BIDDING REQUIREMENTS FOR PUBLIC BUILDINGS. A pollution control facility is not subject to any requirements relating to public buildings, structures, grounds, works, or improvements imposed by the Idaho Code, or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale, or other disposition of property of any county is not applicable to any action taken under authority of this act.

[31-4513, added 1975, ch. 52, sec. 13, p. 105.]

31-4514. JOINT OPERATION. The powers herein conferred upon counties under this act may be exercised by two (2) or more counties acting jointly.

[31-4514, added 1975, ch. 52, sec. 14, p. 105.]

31-4515. TAX EXEMPTION. Revenue bonds and the interest thereon, issued pursuant to the authority contained in this act, shall be exempt from taxation under the Idaho income tax law.

[31-4515, added 1975, ch. 52, sec. 15, p. 105.]

31-4516. BOND ELECTIONS -- VALIDATION OF ELECTIONS AND BONDS. All bond elections conducted by counties pursuant to authority contained in section [31-4510](#), Idaho Code, prior to the effective date of this act, and all proceedings had in the authorization and issuance of the bonds authorized thereat, are hereby validated, ratified and confirmed and all such bonds are declared to constitute legal obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which is being contested at the time this act takes effect.

[31-4516, added 1978, ch. 265, sec. 3, p. 594.]