TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 11
BONDS

40-1101. BONDS -- FUNDING. Every highway district is granted the authority under article VIII of the Idaho constitution to issue negotiable coupon bonds for construction, improvements or repairs of any highways or structures in the district; for the purchase of material and machinery; for contracting highway engineering and construction; for the necessary expenses of the district in connection with these purposes; or for any or all of these or connected purposes. Every highway district is also granted the authority by resolution of its board of commissioners, without election, to issue negotiable coupon bonds for the purposes of funding or refunding any existing indebtedness, whether the indebtedness exists as warrant indebtedness or otherwise. Where an election is required under the provisions of article VIII of the Idaho constitution to authorize a bond issue, the election may be held with other elections. Elections shall be conducted by the county clerk in the same manner as county elections pursuant to title 34, Idaho Code. Authorization for the issuance, sale and redemption of bonds other than funding or refunding existing indebtedness, shall be as provided by chapter 2, title 57, Idaho Code. The total amount of bonds any district has issued and outstanding at any time shall not exceed two percent (2%) of the market value for assessment purposes of all the taxable property in the district as shown by the last preceding assessment list.

[40-1101, added 1985, ch. 253, sec. 2, p. 643; am. 1986, ch. 327, sec. 1, p. 802; am. 2009, ch. 341, sec. 73, p. 1039.]

40-1102. SECURITY FOR BONDS. (1) The full faith, credit, and all taxable property within the limits of a highway district, as they exist at the time of the original resolution of the respective highway district for the issuance of bonds, or may subsequently be extended, shall continue pledged, and the proper officers of the district shall continue to assess and collect on all taxable property within the limits of the highway district necessary taxes to pay the bonds and interest as they become due. Should the tax for the payment of interest on or the principal of bonds not be collected in time to meet the payment, the money must be paid out of any moneys in the general fund of the district, and the moneys used for the payment shall be repaid out of the first moneys paid into the fund from which taken, and a sum sufficient to cover the deficit shall be levied and collected in the next, or any succeeding year. Failure of the officers of the district to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

(2) No bond issued shall be invalidated, annulled, or set aside on account of any defect, irregularity, omission, informality, or failure to comply with the provisions of this title, unless it shall appear to the court that a substantial injury has been or is about to be suffered by the property owners and taxpayers of the district. Bond issues shall rest upon the consent of the taxpayers and the credit of the district shall not be injured by the cancellation of securities when issued.

(3) The district may recite in the bonds that all acts requisite to the issue of them have been duly and regularly performed and fully complied with,

and that they are duly and regularly issued, and as affecting innocent purchasers, the recital shall be conclusive.

[40-1102, added 1985, ch. 253, sec. 2, p. 643.]

40-1103. LEVIES FOR BONDS IN SPECIAL TAX DISTRICTS -- REFUNDING. Should any bond issue where the indebtedness has been charged in part against adjoining property be funded or refunded so that a sinking fund for the original issue is not required to be established, then the annual levy for sinking fund requirements need not be made upon the land in the special tax districts created in respect to the bond issue; or, at the option of the highway district commissioners, a portion of the bond issue, to meet a sufficient amount which has been charged against the special tax districts, may remain without refunding, and shall subsequently be paid and retired with the proceeds of the special taxes on the land within the special tax districts. If the proceeds prove temporarily insufficient, then they shall be paid from the other revenues of the district. If the whole of an issue is refunded and new bonds issued, then the land within the special tax districts shall continue to be specially taxed for the new bonds, equal in amount to the refunding issue equably, both as to principal and interest, with the taxation of the district at large for the bond purposes. On the funding of any issue of bonds, on receiving from the treasurer of the district a certificate, under the seal of the district, signed by the secretary and treasurer of the district and either by the chairman or by the other highway district commissioners that the bonds have been actually funded and retired, the special assessment made against the land within the special tax districts created for the bond issue as provided in section 40-810, Idaho Code, shall be canceled, vacated and annulled, and a new special levy of the same amount shall be assessed against the land in the special tax districts in respect to the new or refunding bonds.

[40-1103, added 1985, ch. 253, sec. 2, p. 644.]

40-1104. FORM OF BONDS -- HIGHWAY DISTRICT. In case a vote is in favor of charging part of the indebtedness to be created by a bond issue against adjoining land, the bonds may be issued and the proceedings shall be as provided by chapter 2, title 57, Idaho Code, except where other special provisions on the subject are provided by sections 40-1103 and 40-808 through 40-813, Idaho Code.

[40-1104, added 1985, ch. 253, sec. 2, p. 644.]

40-1105. ELECTION -- ISSUANCE. The election and all acts and proceedings had and taken in connection by highway district commissioners in respect to bonds and the levy of ad valorem taxes for the construction, improvement or repair of highways are legalized, approved and validated and constituted the negotiable legal obligations of the highway district, where:

(1) A two-thirds (2/3) majority of the qualified electors of the highway district voting on the proposition voted in favor of the issuance of bonds of the highway district;

(2) Notice of the election was given as essentially provided by section 40-206, Idaho Code;

(3) The canvass of the vote revealed the required majority was recorded in the records of the highway district commissioners, and a resolution adopted and recorded in the district records authorizing the issuance of bonds of the district;

(4) The maturity of the bonds was within thirty (30) years;

(5) A rate of interest was prescribed and an ad valorem tax upon all taxable property in the district sufficient to pay the bonds as maturity was levied; and

(6) The bonds were in an amount not exceeding ten per cent (10%) of the assessed valuation if sold and delivered prior to July 1, 1980, or two per cent (2%) of the market value for assessment purposes if sold and delivered on or after July 1, 1980, of all taxable property of the highway district, and the proceeds received by the treasurer of the highway district and expended in the construction, improvement or repair of highways located within the highway district.

[40-1105, added 1985, ch. 253, sec. 2, p. 644.]

40-1106. BONDS OF COUNTY. Nothing in this chapter shall be construed as a limitation of the power of the commissioners to issue bonds for the construction or the repairs of highways and bridges. Whenever the commissioners shall issue bonds for the construction or repair of highways and bridges under the provisions of chapter 19, title 31, Idaho Code, upon the authorization of two-thirds (2/3) of the qualified electors of the county voting at an election held for that purpose, pursuant to a resolution of the commissioners and entered upon their journal specifying, describing and defining the highways or bridges to be constructed or repaired, and giving the termini and the general course of each highway and the approximate location of each bridge it is proposed to construct, and appropriating a specific amount for any highway or bridge wholly or partially within any organized highway district, then the commissioners shall have full jurisdiction and power to locate and construct or repair the highway or bridge within the highway district, and to apply a specific appropriation so derived from the issue of bonds or so much of them as may be necessary.

[40-1106, added 1985, ch. 253, sec. 2, p. 645.]