

TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 4
IDAHO TURNPIKE AUTHORITY

40-401. TURNPIKE PROJECTS. The board is empowered to construct, maintain, repair and operate turnpike projects at locations established by it, and shall be an instrumentality exercising public and essential governmental functions in the construction, operation and maintenance of turnpike projects.

[40-401, added 1985, ch. 253, sec. 2, p. 606.]

40-402. IDENTIFICATION OF TURNPIKE PROJECTS. Each specific turnpike project shall be clearly identified by an appropriate descriptive name and shall be operated as a separate enterprise. When a turnpike project is proposed by the board, it shall provide all surveys necessary to establish its economic feasibility, including the origin and destination counts, engineering surveys and other reports which may be required in order to secure adequate financing.

[40-402, added 1985, ch. 253, sec. 2, p. 606.]

40-403. INCIDENTAL POWERS -- GRADE SEPARATIONS -- RELOCATION OF PUBLIC HIGHWAYS -- RIGHT OF ENTRY. (1) The board shall have power to construct grade separations at intersections of any turnpike project with public highways and to change and adjust the lines and grades of those highways in order to accommodate them to the design of the grade separation. The cost of the grade separations and any damage incurred in changing and adjusting lines and grades of highways shall be ascertained and paid by the board as a part of the cost of the turnpike project.

(2) If the board shall find it necessary to change the location of any portion of any public highway, it shall cause it to be reconstructed at a location as the highway board having jurisdiction over the highway to be reconstructed shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of reconstruction and any damage incurred in changing the location of any highway shall be ascertained and paid by the board as a part of the cost of the turnpike project.

(3) Any highway affected by the construction of any turnpike project may be changed or relocated by the board in the manner provided by law for the vacation or relocation of public highways, and any damage awarded shall be paid by the board as a part of the cost of the project.

(4) The board and its authorized agents and employees may enter upon any lands, waters and premises in the state for the purposes of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of a turnpike project, and such an entry shall not be deemed a trespass, nor shall an entry for those purposes be deemed an entry under any condemnation proceedings which may be then pending. The board shall make reimbursement for any actual damages resulting to the lands, water, and premises as a result of those activities.

[40-403, added 1985, ch. 253, sec. 2, p. 606.]

40-404. FEEDER HIGHWAYS. (1) The board is authorized to:

(a) Construct, repair and maintain any feeder highway which in the opinion of the board will increase the use of a turnpike project to which the highway is a feeder;

(b) Assume maintenance and repair operations of an existing highway which is needed as a feeder highway. Before exercising these powers, consent of local authority exercising jurisdiction over the existing highway must be obtained; and

(c) Realign an existing highway and build additional sections of highway over new alignment in connection with the existing highway.

(2) Where a feeder highway is constructed over new alignment, the board is granted the same powers concerning construction as is granted in connection with the construction of the turnpike project. Any feeder highway, eighty per cent (80%) or more of which is built over new alignment, shall for the purposes of this section be deemed to be a new feeder highway.

(3) Where the board has constructed a new feeder highway, it shall have the obligation to maintain and repair the new feeder highway.

(4) No toll shall be charged for transit between points on any feeder or new feeder highway.

[40-404, added 1985, ch. 253, sec. 2, p. 607.]

40-405. TOLLS, FIXING AND COLLECTING. (1) The board is authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections of the project, and to contract with any person, partnership, association or corporations desiring the use of any part of the project, including the right-of-way adjoining the paved portion, for the placement of telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, and restaurants, or for any other purpose except for tracks for railroad or for railway use, and to fix the terms, conditions, rents and rates of charge for that use.

(2) The board shall construct any gasoline service facilities which it may determine are needed on the project, and to afford users of the project a reasonable choice of motor fuels of different brands. Each gasoline service station shall be separately offered for lease upon sealed bids. Notice of the offer shall be published once a week in three (3) successive weeks in a newspaper having general circulation in the state. If acceptable bids are received, in the judgment of the board, each lease shall be awarded to the highest and best bidder, but no person shall be awarded or have the use of, nor shall motor fuel identified by trade marks, trade names or brands of any one (1) supplier, distributor or retailer of such fuel be sold at more than one (1) service station if they would constitute more than twenty-five per cent (25%) of the service stations on the entire project.

(3) No contract shall be required and no rent, fee or other charge of any kind shall be imposed for the use and occupation of any turnpike project for the installation, construction, use, operation, maintenance, repair, renewal, relocation or removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or other equipment or appliances in, on, along, over or under any turnpike project by any public utility, person or corporation paying a tax for the privilege of using the public highways or other public places in the state.

(4) Tolls shall be so fixed and adjusted as to carry out and perform the terms and provisions of any contract with or for the benefit of bondholders. Tolls shall not be subject to supervision or regulation by any other depart-

ment, division, bureau, commission, board, or agency of the state. The use and disposition of tolls and revenues shall be subject to the provisions of a resolution by the board in authorizing the issuance of bonds or of a trust agreement securing them.

[40-405, added 1985, ch. 253, sec. 2, p. 607.]

40-406. TRUST FUNDS. All moneys received relating to turnpike projects, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely for turnpike projects. A resolution authorizing bonds of any issue or a trust agreement securing bonds shall provide that any officer with whom, or any bank or trust company with which, the moneys shall be deposited shall act as trustee of the money and shall hold and apply it for the purposes of the turnpike project, subject to the resolution or as a trust agreement may provide.

[40-406, added 1985, ch. 253, sec. 2, p. 608.]

40-407. REMEDY. The only remedy available to any holder of bonds, or any of the coupons appertaining to them, and the trustee under any trust agreement, except to the extent the rights given may be restricted by a trust agreement, shall be to the particular turnpike project account and not against the state or any of its political subdivisions. A statement to this effect shall be printed on the face of all turnpike revenue bonds and any attached coupons.

[40-407, added 1985, ch. 253, sec. 2, p. 608.]

40-408. TAX EXEMPTION -- TURNPIKE PROJECTS. The exercise of powers for turnpike projects shall be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and the improvement of turnpike projects by the board shall constitute the performance of essential governmental functions. The board shall not be required to pay any taxes or assessments upon any turnpike project or any property acquired or used by it relating to turnpike projects or upon the income from them, and any turnpike project and any property acquired or used by the board, and the income from them, and the bonds issued, their transfer and the income from them, including any profit made on the sale of them, shall be exempt from all taxation.

[40-408, added 1985, ch. 253, sec. 2, p. 609.]

40-409. REAL PROPERTY GRANTS AUTHORIZED -- ANNUAL REPORT -- INTEREST IN CONTRACT PENALIZED. (1) Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the board. Each project shall also be operated by tolltakers and other operating employees as the board may in its discretion employ. Nothing contained in this chapter shall in any way affect the regular duties prescribed for state and local police officers.

(2) All political subdivisions and all public departments, agencies and commissions of the state of Idaho, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the board at its request, upon terms and conditions as the proper authorities of political subdivisions and departments, agencies and

commissions of the state deem reasonable and fair, and without the necessity for advertisement, order of a court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the board, including public highways and other real property already devoted to public use.

(3) On or before December 1 each year the board shall make an annual report of its activities for the preceding fiscal year relating to turnpike projects to the governor and to the legislature. Each report shall set forth a complete operating and financial statement covering its operations during the year. The board shall cause an audit of its books and accounts to be made as required in section [67-450B](#), Idaho Code, and the cost of audits shall be treated as a part of the cost of construction or of operation of the turnpike project.

(4) Any member, agent or employee of the board who is interested, either directly or indirectly, in any contract of another with the board, or in the sale of any property, either real or personal, to the board shall be guilty of a felony and punished by a fine of not more than five thousand dollars (\$5,000) or by imprisonment for not more than five (5) years, or by both fine and imprisonment.

[40-409, added 1985, ch. 253, sec. 2, p. 609; am. 1993, ch. 387, sec. 9, p. 1425.]

40-410. TOLLS. When all turnpike revenue bonds and the interest on them shall have been paid, or a sufficient amount for the payment of all bonds and the interest on them to the maturity of them, shall have been set aside for the benefit of bondholders, the board shall continue to use toll revenues as may be necessary to continue the turnpike project in satisfactory condition and repair.

[40-410, added 1985, ch. 253, sec. 2, p. 610.]

40-411. POWER TO ISSUE BONDS -- CREDIT OF STATE NOT PLEDGED. (1) The board shall have power and is authorized to issue, from time to time its negotiable notes and bonds in conformity with the applicable provisions of the uniform commercial code and section [40-412](#), Idaho Code, in a principle amount as the board shall determine to be necessary for sufficient funds for achieving a turnpike project, establishing the reserves to secure the notes and bonds, and all other expenditures of the board incidental and necessary or convenient to carry out its powers for turnpike projects.

(2) Turnpike revenue bonds shall not be deemed to constitute a debt or liability of the state or of any political subdivision, or a pledge of the faith and credit of the state or of any political subdivision, but the bonds, unless refunded by bonds of the board, shall be payable solely from funds pledged or available for their payment. All turnpike revenue bonds and any coupons appertaining to those bonds shall contain on the face a statement to the effect that the board is obligated to pay the same, or the interest on them, only from the tolls, other revenue and proceeds of the bonds and that neither the state nor any political subdivision is obligated to pay the same or the interest on them, and that neither the faith and credit nor the taxing power of the state or any political subdivision is pledged to the payment of the principal of or the interest on the bonds.

[40-411, added 1985, ch. 253, sec. 2, p. 610.]

40-412. BONDS OF BOARD AS TURNPIKE AUTHORITY. (1) The board is authorized to provide by resolution for the issuance of bonds of the board for any of its corporate purposes, including the refunding of its bonds. The principal of and the interest on any issue of bonds shall be payable solely from and may be secured by a pledge of tolls and other revenues of all or any part of the turnpike project financed in whole or in part with the proceeds of the issue or with the proceeds of bonds refunded or to be refunded by the issue. The proceeds of the bonds may be used or pledged for the payment or security of the principal of or interest on bonds and for the establishment of any or all reserves for payment or security, or for other corporate purposes as the board may authorize in the resolution authorizing the issuance of bonds or in a trust agreement securing them. The bonds of each issue shall be dated, shall bear interest at a rate, shall mature at a time not exceeding thirty (30) years from their date, as may be determined by the board and may be made redeemable before maturity, at the option of the board, at a price and under terms and conditions as may be fixed by the board prior to the issuance of the bonds. The board shall determine the form of the bonds including any interest coupons to be attached, and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairman of the board or shall bear his facsimile signature, and the official seal of the board or a facsimile shall be impressed, imprinted, engraved or otherwise reproduced on them. The official seal or facsimile shall be attested by the secretary of the board or by other officer or agent as the board shall appoint and authorize. Any coupons attached to the bonds shall bear the facsimile signature of the chairman of the board. In the event any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. Bonds issued shall have and are declared to have all the qualifications and incidents of negotiable instruments. Bonds may be issued in coupon or in registered form, or both, as the board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board may sell bonds in a manner and for a price, as it may determine to be for the best interest of the board. Neither the members of the board nor any person executing the bonds shall be personally liable on the bonds or be accountable by reason of the issuance of them.

(2) Proceeds of the bonds of each issue shall be disbursed in a manner and under restrictions, if any, as the board may provide in the resolution authorizing the issuance of the bonds or in a trust agreement securing them.

(3) Prior to the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds shall have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued without obtaining consent of any department, division, bureau, commission, board or agency of the state, and without any other proceedings or the happening of any other conditions or

things than those proceedings, conditions or things which are specifically required.

(4) The state does agree with holders of bonds that the state will not limit or restrict rights hereby vested in the board to establish and collect charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expenses of maintenance and operation of a turnpike project and to fulfill the terms of any agreements made with holders of bonds, or in any way impair the rights or remedies or holders of bonds until the bonds, together with interest are fully paid and discharged.

[40-412, added 1985, ch. 253, sec. 2, p. 610.]

40-413. TRUST AGREEMENT. (1) In the discretion of the board any bonds issued may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. A trust agreement or resolution providing for the issuance of bonds, subject to the provisions of section [40-412](#), Idaho Code, may pledge or assign tolls or other revenues to which the board's right then exists or may subsequently come into existence, and moneys derived from them, and the proceeds of the bonds, but shall not convey or mortgage any turnpike project or any part of it. A trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, and not in violation of law, including covenants setting forth the duties of the board in relation to the requisition of property and the construction, improvement, maintenance, repair, operation and insurance of a turnpike project or projects, the rates of tolls and revenues to be charged, the payment, security or redemption of bonds, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of a turnpike project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish indemnifying bonds or to pledge any securities as may be required by the board. A trust agreement or resolution may set forth rights and remedies of bondholders and of the trustee, and may restrict individual rights of action by bondholders. In addition, a trust agreement or resolution may contain other provisions as the board may deem reasonable and proper for the security of bondholders. All expenses incurred in carrying out the provisions of a trust agreement may be treated as a part of the cost of the operation of the turnpike project.

(2) Any pledge of tolls, other revenues, or other moneys made by the board shall be valid and binding from the time when the pledge is made. The tolls, other revenues, or other moneys pledged and subsequently received by the board shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the board, irrespective of whether the parties have notice of it.

[40-413, added 1985, ch. 253, sec. 2, p. 611.]

40-414. REFUNDING BONDS. The board is hereby authorized to provide by resolution for the issuance of refunding bonds of the board for the purpose of refunding any bonds then outstanding which shall have been issued, in-

cluding the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the bonds, and, if deemed advisable by the board, for the additional purpose of constructing improvements, extensions, or enlargements of the turnpike project in connection with which the bonds to be refunded shall have been issued. The board is further authorized to provide by resolution for the issuance of its bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of section [40-412](#), Idaho Code, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption of the bonds. The issuance of the bonds, the maturities and other details of them, the rights of the holders, and the rights, duties, and obligations of the board in respect of the bonds shall be governed by the provisions of this chapter insofar as they may be applicable.

[40-414, added 1985, ch. 253, sec. 2, p. 612.]