

TITLE 7
SPECIAL PROCEEDINGS

CHAPTER 13
JUDICIAL CONFIRMATION

7-1301. SHORT TITLE. This chapter shall be known as the "Judicial Confirmation Law."

[7-1301, added 1988, ch. 219, sec. 1, p. 414.]

7-1302. LEGISLATIVE DECLARATION. The legislature of the state of Idaho determines, finds and declares in connection with this chapter:

(1) An early judicial examination into and determination of the validity of the power of any political subdivision to issue bonds or obligations and execute any agreements or security instruments therefor promotes the health, safety and welfare of the people of the state.

(2) The provision in this chapter of the purposes, powers, duties, privileges, immunities, rights, liabilities and disabilities pertaining to issuance of bonds or execution of obligations by political subdivisions will serve a public function and effect a public purpose.

(3) Any notice provided for in this chapter is reasonably calculated to inform each person of interest in any proceedings thereunder which may directly and adversely affect his legally protected interests, if any.

(4) Any act prior to or subsequent to the effective date of this chapter may be confirmed pursuant to this chapter.

[7-1302, added 1988, ch. 219, sec. 1, p. 414; am. 1996, ch. 235, sec. 1, p. 763.]

7-1303. DEFINITIONS. Except where the context otherwise requires, the definitions in this section govern the construction of the judicial confirmation law. All other words should be given their ordinary and customary meaning.

(1) "Agreement" means any agreement or contract between a political subdivision and individuals, corporations, or any other political subdivision or public agency as authorized by section [67-2328](#), Idaho Code, relating to bonds or obligations of the political subdivision.

(2) "Bond" means any agreement, which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of any political subdivision or a fund thereof, where the political subdivision agrees to pay a specified amount of money, with or without interest, at a designated time or times to either registered owners or bearers.

(3) "Executive officer" means the de jure or de facto governor of this state, mayor, chairman, president or other titular head or chief official of the political subdivision proceeding under this chapter, but "executive officer" does not include a city manager, county manager or other chief administrator of a political subdivision who is not its elected head.

(4) "Governing body" means:

(a) The state commission or state board responsible for the exercise of a power by the state or responsible for an instrument, act or project of the state to which court proceedings authorized by this chapter and initiated by the state pertain; and

(b) The city council, board of commissioners, board of trustees, board of directors, board of regents or other legislative body of a political subdivision under this chapter.

Governing body does not include the legislature of the state of Idaho if the political subdivision is the state or any corporation, instrumentality or other agency thereof.

(5) "Obligation" means an agreement that evidences an indebtedness of any political subdivision, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(6) "Political subdivision" means the state of Idaho, or any corporation, instrumentality or other agency thereof, or any incorporated city, or any county, school district, water and/or sewer district, drainage district, special purpose district or other corporate district constituting a political subdivision of this state, any quasi-municipal corporation, housing authority, urban renewal authority, other type of authority, any college or university, or any other body corporate and politic of the state of Idaho, but excluding the federal government.

(7) "Security instrument" means any contract, deed or other security or other document of any kind, proposed, or executed or otherwise made as security for bonds or obligations issued by a political subdivision.

[7-1303, added 1988, ch. 219, sec. 1, p. 415.]

7-1304. PETITION FOR JUDICIAL EXAMINATION AND DETERMINATION OF VALIDITY OF BOND, OBLIGATION, AGREEMENT, OR SECURITY INSTRUMENT -- FACTS -- VERIFICATION -- PUBLIC HEARING. (1) In its discretion the governing body of a political subdivision may file or cause to be filed a petition at any time in the judicial district court in and for the district in which the political subdivision is located wholly or in part, praying a judicial examination and determination of the validity of any bond or obligation or of any agreement or security instrument related thereto, of the political subdivision, whether or not such bond or obligation agreement has been validly exercised, or executed. The filing of the petition shall have been authorized by the governing body having adopted a resolution or ordinance authorizing such filing after conducting a public hearing as defined in subsection (3) of this section.

(2) Such petition shall make a clear statement of the legal authority for the proposed expenditure, shall set forth the facts on which the validity of such bond or obligation is founded and shall be verified by the executive officer of the political subdivision.

(3) Prior to the filing of the petition described in subsection (1) above, the governing body of a political subdivision shall hold a public hearing to consider whether it should adopt a resolution or ordinance authorizing the filing of the petition. Any person may make a request for notice of all meetings of the governing body of a political subdivision at which a public hearing will be held to consider a resolution or ordinance authorizing the filing of a petition described in subsection (1) of this section, by submitting to the governing body a written request for notice, which request shall be valid until December 31 of the year in which it was filed. The governing body of the political subdivision shall send a notice by certified mail to all persons who have requested notice, to the address provided in the request for notice, at least fourteen (14) days before the public hearing will be held, informing them of the time and place of the

public hearing which will be held to consider the resolution or ordinance authorizing the filing of the petition. A petition or judgment approving a petition shall not be defective for failure to strictly comply with this notice provision if compliance with the notice requirement is substantial and in good faith. The public hearing shall be conducted at least fourteen (14) days prior to the adoption of the resolution or ordinance. At least fifteen (15) days prior to the date set for the public hearing, notice of the time, place and summary of the matter shall be published in the official newspaper, or papers of general circulation within the jurisdiction. The notice shall be in the form and content described in subsection (2) of section [7-1306](#), Idaho Code, but need be published only once.

[7-1304, added 1988, ch. 219, sec. 1, p. 416; am. 1994, ch. 173, sec. 1, p. 399; am. 1996, ch. 235, sec. 2, p. 764.]

7-1305. ACTION IN NATURE OF PROCEEDINGS IN REM -- JURISDICTION OF PARTIES. The action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication and posting, as provided in this chapter.

[7-1305, added 1988, ch. 219, sec. 1, p. 416.]

7-1306. NOTICE OF FILING OF PETITION -- CONTENTS -- SERVICE BY PUBLICATION AND POSTING. (1) Notice of the filing of the petition shall be given by the clerk of the court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any instrument therein mentioned may be examined.

(2) The notice shall be served:

(a) By publication at least once a week for three (3) consecutive weeks by three (3) weekly insertions, in the official newspaper or papers of general circulation within the jurisdiction; the publication shall meet the following requirements: The notice shall be of a format and in such size and type that distinguishes it from legal notices. The notice shall be requested to run in the newspaper's main news section, far forward, and the rate to be paid for advertising placed under this section shall be no more than the current rate card posted by the newspaper for similar forms of advertising in volume and frequency to that which is ordered, in order to meet the requirements of this section; provided, the rates and type requirements provided in section [60-105](#), Idaho Code, for public agency advertisements shall not apply to advertisements published under the requirements of this section; and

(b) By posting the same in a prominent place at or near the main door of the administrative office of the political subdivision at least thirty (30) days prior to the date fixed in the notice for the hearing on the petition.

(3) Jurisdiction shall be complete after such publication and posting.

[7-1306, added 1988, ch. 219, sec. 1, p. 416; am. 1994, ch. 173, sec. 2, p. 399.]

7-1307. OWNER OF PROPERTY OR INTERESTED PARTY MAY MOVE TO DISMISS OR ANSWER -- EFFECT OF FAILURE TO APPEAR. (1) Any owner of property, taxpayer, elector or rate payer, in the political subdivision or any other person interested in the bond, obligation or agreements or security instrument re-

lated thereto, or otherwise interested in the premises may appear and move to dismiss or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court.

(2) The petition shall be taken as confessed by all persons who fail to so appear.

[7-1307, added 1988, ch. 219, sec. 1, p. 416.]

7-1308. HEARING -- FINDINGS -- JUDGMENT AND DECREE -- COSTS -- ENTITLEMENT TO RELIEF. (1) The filing of the petition and publication and posting of the notice as provided in section [7-1306](#), Idaho Code, shall be sufficient to give the court jurisdiction, and upon hearing the court shall examine into and determine all matters and things affecting each question submitted, shall make such findings with reference thereto and render such judgment and decree thereon as the case warrants.

(2) In making the findings set forth in subsection (1) of this section, the court shall find upon what legal authority the political subdivision bases the petition for the proposed bond, obligation or agreement and whether such bond, obligation or agreement is permissible under the general laws of the state or is permissible as an ordinary and necessary expense of the political subdivision authorized by the general laws of the state and shall determine if the political subdivision is entitled to the relief sought. If in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to establish the truth of any averment by evidence or make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper.

[7-1308, added 1988, ch. 219, sec. 1, p. 416; am. 1994, ch. 173, sec. 3, p. 400; am. 1996, ch. 235, sec. 3, p. 765.]

7-1309. APPEAL OF JUDGMENT -- TIME FOR APPLICATION. Appeal of the judgment of the court may be had as in other civil cases, except that such appeal must be filed within forty-two (42) days after the time of the rendition of such judgment.

[7-1309, added 1988, ch. 219, sec. 1, p. 417; am. 1989, ch. 114, sec. 1, p. 259.]

7-1310. APPLICABILITY OF IDAHO RULES OF CIVIL PROCEDURE -- EARLY HEARINGS. (1) The Idaho rules of civil procedure shall govern in matters of pleadings and practice where not otherwise specified herein.

(2) The court shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties.

(3) All cases in which there may arise a question of the validity of any matter under this chapter shall be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable time.

[7-1310, added 1988, ch. 219, sec. 1, p. 417.]

7-1311. EFFECT OF CHAPTER. (1) This chapter, without reference to other statutes of this state, except as otherwise expressly provided in this chapter, shall constitute full authority for the exercise of the powers herein granted.

(2) The powers conferred by this chapter shall be in addition and supplemental to, and not in substitution for, and the limitations imposed hereby shall not affect the powers conferred by, any other law.

(3) Nothing contained in this chapter shall be construed as preventing the exercise of any power granted to the political subdivision, acting by and through the governing body, or any officer, agent or employee of the political subdivision, or otherwise, by any other law.

(4) No part of this chapter shall repeal or affect any other law or part thereof, it being intended that this chapter shall provide a separate method of accomplishing its objectives and not an exclusive one; and this chapter shall not be construed as repealing, amending or changing any such other law.

[7-1311, added 1988, ch. 219, sec. 1, p. 417.]

7-1312. SEVERABILITY. If any provisions of this act or its application to any person, political subdivision, or circumstance is held invalid, the remainder of the act or the application of the provision to other persons, political subdivisions or circumstances is not affected.

[7-1312, added 1988, ch. 219, sec. 1, p. 417.]

7-1313. ATTORNEY FEES. Whenever a court shall determine that a political subdivision is not entitled to the relief sought or that this chapter has not been substantially complied with and enters a judgment denying the petition, the court shall award reasonable attorney fees to any owner of property, taxpayer, qualified elector or rate payor or any other interested person who has appeared and moved to dismiss or answer the petition.

[7-1313, added 1994, ch. 173, sec. 4, p. 401; am. 1996, ch. 235, sec. 4, p. 765.]