

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 547

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO JUDICIAL CONFIRMATION; AMENDING CHAPTER 13, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 7-1304, IDAHO CODE, TO PROVIDE FOR ELECTIONS RELATING TO PROPOSALS TO BOND OR OBLIGATE, TO PROVIDE OPTIONS FOR A POLITICAL SUBDIVISION FOLLOWING AN ELECTION, TO PROVIDE AN EXCEPTION AND TO PROVIDE FOR FURTHER PROCEEDINGS; AMENDING SECTION 7-1304, IDAHO CODE, TO REDESIGNATE THE SECTION, TO PROVIDE THAT CERTAIN REQUIREMENTS MUST BE MET OR SPECIFIED PROVISIONS APPLY PRIOR TO THE FILING OF A PETITION FOR JUDICIAL EXAMINATION AND DETERMINATION, TO PROVIDE THAT PETITIONS SHALL INCLUDE A COST/BENEFIT ANALYSIS RELATING TO A PROPOSED EXPENDITURE THAT SHALL INCLUDE AN ANALYSIS OF THE IMPACT SAID EXPENDITURE WOULD HAVE ON CURRENT LEVELS OF ASSESSMENT AND TAX RATES AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 7-1308, IDAHO CODE, TO PROVIDE THAT IN MAKING FINDINGS RELATING TO A JUDICIAL EXAMINATION AND DETERMINATION A COURT SHALL DETERMINE WHETHER A POLITICAL SUBDIVISION HAS SHOWN THE COURT THAT COMPELLING REASONS EXIST FOR A PROPOSED BOND, OBLIGATION OR AGREEMENT AND PROVIDING FOR CERTAIN RECORDKEEPING.

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

SECTION 1. That Chapter 13, Title 7, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 7-1304, Idaho Code, and to read as follows:

7-1304. ELECTION -- PROPOSAL TO BOND OR OBLIGATE. (1) The governing body of a political subdivision shall hold an election on any proposal to bond or obligate. Elections pursuant to this section shall be held in accordance with Idaho's general election laws using a separate ballot and shall be held on one (1) of the dates specified in section 34-106, Idaho Code. A separate ballot form, as provided by law, shall be used making clear the choices "For proposal to bond or obligate for (insert reason for the proposal to bond or obligate)" "Against proposal to bond or obligate for (insert reason for the proposal to bond or obligate)." Voting boundaries shall be drawn to include only those voters residing within the political subdivision. In the event a requisite number, pursuant to Idaho law depending on the type of bond or obligation at issue, of those voting, vote in favor of the proposal to bond or obligate, the political subdivision may proceed with the bonding or obligation. In the event a requisite number, pursuant to Idaho law depending on the type of bond or obligation at issue, does not vote in favor of the proposal to bond or obligate, the political subdivision may conduct any number of subsequent elections pursuant to the provisions of this section or may proceed in accordance with the provisions of section 7-1304A, Idaho Code.

(2) The provisions of subsection (1) of this section shall not apply to the governing body of a political subdivision under circumstances where an economic development project is available and the project will begin in a pe-

riod of less than six (6) months. As used in this subsection, "economic development project or projects" means any commercial or industrial project including, without limitation, any manufacturing, processing, production, assembly, warehousing, office, research and development, energy or other business project owned by one (1) or more persons or other legal entities, any costs relating thereto including, without limitation, costs for buildings, land, equipment, furnishings, interest, costs of operation, financing, architectural, engineering and other professional costs and other related costs, as well as any working capital costs or expenses for such businesses. In the event the provisions of this subsection apply to a project, the governing body of the political subdivision may proceed under the provisions of section 7-1304A, Idaho Code.

SECTION 2. That Section 7-1304, Idaho Code, be, and the same is hereby amended to read as follows:

7-1304A. PETITION FOR JUDICIAL EXAMINATION AND DETERMINATION OF VALIDITY OF BOND, OBLIGATION, AGREEMENT, OR SECURITY INSTRUMENT -- FACTS -- VERIFICATION -- PUBLIC HEARING. (1) ~~In its discretion~~ Provided the requirements of section 7-1304(1), Idaho Code, have been met, or the provisions of section 7-1304(2), Idaho Code, apply, 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, shall provide a cost/benefit analysis relating to the proposed expenditure that shall include an analysis of the impact said expenditure would have on current levels of assessment and tax rates 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~~ of this section, 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

1 authorizing the filing of the petition. A petition or judgment approving a  
 2 petition shall not be defective for failure to strictly comply with this no-  
 3 tice provision if compliance with the notice requirement is substantial and  
 4 in good faith. The public hearing shall be conducted at least fourteen (14)  
 5 days prior to the adoption of the resolution or ordinance. At least fifteen  
 6 (15) days prior to the date set for the public hearing, notice of the time,  
 7 place and summary of the matter shall be published in the official newspaper,  
 8 or papers of general circulation within the jurisdiction. The notice shall  
 9 be in the form and content described in subsection (2) of section 7-1306,  
 10 Idaho Code, but need be published only once.

11 SECTION 3. That Section 7-1308, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 7-1308. HEARING -- FINDINGS -- JUDGMENT AND DECREE -- COSTS -- ENTI-  
 14 TLEMENT TO RELIEF. (1) The filing of the petition and publication and posting  
 15 of the notice as provided in section 7-1306, Idaho Code, shall be sufficient  
 16 to give the court jurisdiction, and upon hearing the court shall examine  
 17 into and determine all matters and things affecting each question submitted,  
 18 shall make such findings with reference thereto and render such judgment and  
 19 decree thereon as the case warrants.

20 (2) In making the findings set forth in subsection (1) of this section,  
 21 the court shall find upon what legal authority the political subdivision  
 22 bases the petition for the proposed bond, obligation or agreement and  
 23 whether such bond, obligation or agreement is permissible under the general  
 24 laws of the state or is permissible as an ordinary and necessary expense  
 25 of the political subdivision authorized by the general laws of the state,  
 26 shall determine whether the political subdivision has shown the court that  
 27 compelling reasons exist for the proposed bond, obligation or agreement  
 28 and shall determine if the political subdivision is entitled to the relief  
 29 sought. If in order to enable the court to enter judgment or to carry it into  
 30 effect, it is necessary to take an account or to establish the truth of any  
 31 averment by evidence or make an investigation of any other matter, the court  
 32 may conduct such hearings or order such references as it deems necessary and  
 33 proper. As part of its routine statistical recordkeeping, the court shall  
 34 maintain records identifying the number of petitions for judicial examina-  
 35 tion filed pursuant to the provisions of this chapter, which shall include  
 36 identification of the entity so petitioning the court, the amount of the  
 37 bond, obligation or agreement requested in the petition and the amount, if  
 38 any, determined to be entitled to the political subdivision by the court.