

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 49
REGIONAL SOLID WASTE OR DOMESTIC SEPTAGE DISPOSAL DISTRICTS

31-4901. FINDINGS AND PURPOSE. (1) The legislature hereby finds and declares that the disposal of solid waste and domestic septage within the state of Idaho is an important public purpose, and that the creation of independent regional districts to administer solid waste or domestic septage disposal is an efficient and cost-effective method of meeting the state's solid waste or domestic septage disposal needs.

(2) The purpose of this chapter is to enable counties to establish regional solid waste or domestic septage districts for the purpose of providing a regional solution to the problem of solid waste or domestic septage disposal through the operation and maintenance of a regional solid waste or domestic septage system.

(3) The foregoing purpose is hereby declared to be a valid public purpose within the police powers of the state of Idaho.

[31-4901, added 1990, ch. 390, sec. 1, p. 1085; am. 2001, ch. 175, sec. 2, p. 596.]

31-4902. DEFINITIONS. As used in this chapter:

(1) "Act" or "this act" means this regional solid waste or domestic septage district act.

(2) "Commissioners" means the board of commissioners of each county within a district.

(3) "District" means a regional solid waste or domestic septage district created pursuant to this chapter.

(4) "District board" means the board of directors of a district.

(5) "Domestic septage" means either liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar treatment works that receive only domestic sewage. Domestic septage does not include liquid or solid material removed from septic tanks, cesspools, or similar treatment works that receive either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

(6) "Facility" or "facilities" means all equipment and other property, including electrical cogeneration equipment, deemed necessary by the district board for the operation of a solid waste disposal and/or resource recovery system or the operation of domestic septage receiving stations, domestic septage treatment processes and domestic septage disposal methods.

(7) "Participating county" means a county which elects, through action of the commissioners as provided in this chapter, to become a member of a district.

(8) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under 33 U.S.C. 1342, or source,

special nuclear, or byproduct material as defined by the atomic energy act of 1954, as amended.

(9) "State" means the state of Idaho.

(10) "System" means all components of solid waste operations including, but not limited to, landfill compliance measures, landfill disposal operations, regional transfer operations, domestic septage receiving stations, domestic septage disposal methods, domestic septage treatment operations and resource recovery and management, on any site or sites acquired, constructed, operated, or managed by a district.

[31-4902, added 1990, ch. 390, sec. 1, p. 1086; am. 2001, ch. 175, sec. 3, p. 596.]

31-4903. ESTABLISHMENT OF DISTRICTS. Any two (2) or more counties within the state may establish an independent public body corporate and politic to be known as a regional solid waste or domestic septage district (with such additional designation as the district board may select), consisting of such counties as may elect, by resolution of the commissioners of such counties, to become participating counties of such district. The boundaries of a district shall be coterminous with the boundaries of the participating counties. Counties within a district need not be contiguous to each other. No district shall transact any business nor exercise any powers hereunder until or unless the commissioners of two (2) or more of such counties, by resolution, shall declare their intent to participate in a district. Any county which does not so elect to become a participating county shall not be subject to the provisions of this chapter.

In any suit, action, or proceeding involving or relating to any contract, resolution, regulation, or other action of a district, the district shall be conclusively deemed to have been organized and authorized to transact business and to exercise its powers hereunder upon proof of the adoption of a resolution by the commissioners of not less than two (2) counties as provided hereinabove. A duly certified copy of any such resolution shall be admissible in evidence in any suit, action, or proceeding.

A district created pursuant to this chapter shall not be deemed to be an agency of the state of Idaho nor of any of its political subdivisions for purposes of article VIII of the Idaho constitution.

[31-4903, added 1990, ch. 390, sec. 1, p. 1086; am. 2001, ch. 175, sec. 4, p. 597.]

31-4904. DISTRICT BOARD -- QUORUM -- MEETINGS. A district shall be governed by a board of directors consisting of not less than three (3) members, hereinafter referred to as the district board, which shall be vested with the authority, control and supervision of the district. The district board shall consist of one (1) commissioner from each participating county, appointed by the commissioners of the participating county. If the district includes only two (2) counties, the commissioners of the two (2) participating counties shall jointly appoint a third member of the district board. Ex officio, nonvoting members may be appointed by the district board. The district board shall designate one (1) of its members as president, shall appoint a treasurer, who need not be a member of the district board, and shall establish such other officers as it deems necessary. The district board shall adopt bylaws for its own operation and establish such regular meeting dates and times as it shall deem necessary. A majority of the voting

members of the district board shall constitute a quorum, and a majority of the quorum present shall be sufficient to take any action. A member of the district board shall serve for a two (2) year term and may be reappointed by the commissioners appointing such member. Any member may be removed by the commissioners who originally appointed such member, at any time and for any reason. Any vacancy shall be filled by the original appointing commissioners. Members of a district board shall serve without compensation, but may be reimbursed for their actual expenses incurred in attending board meetings or conducting other district business under such rules as the district board may adopt. Regular and special meetings of a district board shall be conducted in compliance with [chapter 2, title 74](#), Idaho Code.

[31-4904, added 1990, ch. 390, sec. 1, p. 1087; am. 2015, ch. 141, sec. 58, p. 421.]

31-4905. CONFLICT OF INTEREST PROHIBITED. No member of a district board, employee, or agent of a district shall acquire any interest in any property or contract of the district.

[31-4905, added 1990, ch. 390, sec. 1, p. 1087.]

31-4906. POWERS OF THE BOARD OF DIRECTORS. A district board shall have and may exercise the following powers and duties:

- (1) To sue and be sued;
- (2) To develop and administer a system for the regional disposal of solid waste, domestic septage and/or resource recovery within the district;
- (3) To authorize any action by motion, resolution, or other official action;
- (4) To administer and enforce all solid waste or domestic septage regulations and standards of the district;
- (5) To determine the location of its main office and branch offices, if any;
- (6) To acquire, hold title to, lease, mortgage or encumber, dispose of, and pledge real and personal property and to acquire, construct, or lease buildings, structures, and solid waste or domestic septage disposal and resource recovery sites and equipment as may be deemed necessary to fulfill its duties, and to have and exercise the power of eminent domain therefor;
- (7) To sell, convey, lease or dispose of any property, real or personal, with or without competitive bid, upon such terms and conditions and for such consideration as the district board deems appropriate;
- (8) To acquire, construct, operate, and maintain any facilities within the district, and to enter into contracts and agreements, cooperative and otherwise, affecting the affairs of the district, including contracts with the United States of America and any of its agencies or instrumentalities, the state and any of its agencies or instrumentalities, any corporation or person, public or private, any municipality, and any political or governmental subdivision, within or without the state, and to cooperate with any one (1) or more of them in acquiring, constructing, operating, or maintaining a system or facilities within the district;
- (9) To acquire, maintain, and operate, as an incident to solid waste disposal or domestic septage, electrical cogeneration facilities, to sell electricity to any person or entity, and to enter into contracts therefor;
- (10) To receive moneys and property from participating counties and to receive gifts, grants, and donations from any person or entity, to expend the

same for the purposes of the district, to pledge the same for the payment of any indebtedness, to deposit moneys in accordance with the public depository laws of the state, and to invest moneys of the district in investments permitted under sections [67-1210](#) and [67-1210A](#), Idaho Code;

(11) To borrow money and incur indebtedness, and to evidence the same by notes, warrants, bonds, or other evidence of indebtedness;

(12) To have the management, control, and supervision of all the business and affairs of the district;

(13) To hire an administrator and provide for the compensation of other employees of the district, and to retain agents, engineers and consultants;

(14) To retain or employ regular legal counsel, and to retain such special legal counsel as may be deemed necessary;

(15) To fix and to increase or decrease rates, fees, tolls, or charges for the use or availability of the facilities of the district;

(16) To adopt rules, regulations, and standards, consistent with state and federal laws and regulations, for the use of the district's system and facilities;

(17) To maintain civil actions for the abatement of any violation of any of the district's rules, regulations, or standards;

(18) To insure its property and to enter into contracts for insurance, including, but not limited to, liability insurance;

(19) To exercise all or any part or combination of the powers set forth in this chapter, and to do all things necessary or incidental to the proper operation of this chapter.

[31-4906, added 1990, ch. 390, sec. 1, p. 1087; am. 2001, ch. 175, sec. 5, p. 597.]

31-4907. ANNUAL BUDGET. The fiscal year of a district shall commence on October 1 of each year and shall end on September 30 of the following year.

The district board shall prepare, by the first Monday in July of each year, a preliminary budget for the district and an estimate of costs to be apportioned to each participating county for the ensuing year. A copy of the preliminary budget, showing the amount of costs to be allocated to each participating county, shall be distributed to each participating county by July 15 of each year.

On or before the first Monday in August, there shall be held at a time and place determined by the district board a meeting and public hearing upon the proposed budget of the district. Notice of the meeting and public hearing shall be published in a newspaper of general circulation in each participating county, in one (1) issue thereof. The place, hour, and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A summary of such proposed budget shall be published with and as a part of the publication of such notice of hearing in substantially the form required in section [31-1604](#), Idaho Code.

On or before August 15 of each year a budget for the district shall be approved by the district board and certified to each county. Such determination shall be binding upon all counties within the district and the district itself.

A district may establish operating funds, dedicated funds, bond and sinking funds, and such other funds as the district board may designate, and may accumulate and carry over funds from year to year as the district board shall direct. Such funds may be utilized for any lawful purpose of the

district including, but not limited to, compliance with federal and state environmental protection laws and regulations.

[31-4907, added 1990, ch. 390, sec. 1, p. 1088.]

31-4908. APPORTIONMENT OF ANNUAL COSTS TO COUNTIES. Any costs of the district for the ensuing year, in excess of the fees and other revenues anticipated to be received directly by the district, shall be allocated to the participating counties in accordance with the annual budget approved by the district board. Costs shall be allocated on a per capita, weight, or volume basis, or any combination thereof designed to achieve an equitable distribution of costs in relation to the benefits derived to each county. Any participating county may finance its share of such costs in accordance with section [31-4404](#), Idaho Code. It shall be the duty of each participating county to remit its apportioned amount to the district at such time or times as specified in the annual budget approved by the district board.

[31-4908, added 1990, ch. 390, sec. 1, p. 1089.]

31-4909. NO POWER TO TAX. A district shall have no power to levy property taxes. Nothing herein shall be deemed as limiting or prohibiting the power of any participating county to levy property taxes for the purposes authorized in section [31-4404](#), Idaho Code.

[31-4909, added 1990, ch. 390, sec. 1, p. 1089.]

31-4910. BONDS AND OTHER INDEBTEDNESS. A district shall have power to issue bonds or other obligations including, without limitation, installment purchase or lease-purchase obligations, from time to time in the discretion of the district board, for any of its corporate purposes. A district shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued or other indebtedness previously incurred by it. In order to carry out the purposes of this chapter, a district may issue, upon proper resolution, bonds or other obligations on which the principal and interest are payable (a) exclusively from the income and revenue of a project financed with the proceeds of such bonds or other obligations; or (b) exclusively from such income and revenues together with grants and contributions from the federal government or other moneys of the district or any source in aid of such project.

Neither the members of the district board nor any person executing the bonds shall be liable personally on the bonds or other obligations by reason of the issuance thereof. The bonds and other obligations of a district (and such bonds and obligations shall so state on their face) shall not be a debt or liability, direct or indirect, of the district, the state, or any political subdivision thereof, and neither the district, the state, nor any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds other than those of the district. Bonds of a district are declared to be issued for an essential public and governmental purpose, and the interest thereon shall be exempt from income taxation by the state of Idaho.

[31-4910, added 1990, ch. 390, sec. 1, p. 1089.]

31-4911. AUTHORIZATION, FORM AND SALE OF BONDS. When the district board shall find the proposed project or projects to be necessary for the proper operation of the district and economically feasible and such finding is recorded in its minutes, the bonds therefor shall be authorized by resolution of the district board. The bonds may be issued in one (1) or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times, not exceeding forty (40) years from the respective dates thereof, may mature in such amount or amounts, may bear interest at such rate or rates to be determined by the district board, may be in such form, may carry such registration and such conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without premium, as such resolution or other resolutions may provide. The bonds may be sold at a public or private sale at, above, or below par, as shall be determined by the district board, plus accrued interest, in a manner to be provided by the district board. The bonds shall be fully negotiable within the meaning and for all purposes of the uniform commercial code.

[31-4911, added 1990, ch. 390, sec. 1, p. 1090.]

31-4912. SECURITY FOR BONDS OR OTHER INDEBTEDNESS. In connection with the issuance of bonds or the incurring of other indebtedness, and to secure the payment of the same, the district board shall have the power:

- (1) To pledge all or any part of its fees and revenues from any source;
- (2) To covenant against pledging all or any part of its fees and revenues, or against permitting any lien on such fees, revenues, or property;
- (3) To covenant as to the bonds or other indebtedness to be issued and as to the use and disposition of the proceeds thereof;
- (4) To establish and fund reserves for the payment of such bonds or indebtedness;
- (5) To enter into credit enhancement arrangements including, but not limited to, letters of credit, reimbursement and remarketing agreements, and bond insurance policies;
- (6) To make such covenants as will tend to make such bonds or indebtedness more marketable, notwithstanding that such covenants may not be enumerated herein.

[31-4912, added 1990, ch. 390, sec. 1, p. 1090.]

31-4913. LIMITATION ON ACTIONS. No direct or collateral action attacking or questioning the validity of any bonds or other indebtedness of a district shall be brought after the elapse of forty (40) days from and after the adoption of the resolution authorizing the issuance of such bonds or the incurring of such indebtedness.

[31-4913, added 1990, ch. 390, sec. 1, p. 1091.]

31-4914. APPLICATION OF LAWS. In the acquisition, construction, siting or other location of any facilities of a district, the district shall be subject to and shall comply with applicable zoning and building laws, ordinances and regulations of the governmental entity having jurisdiction over such location.

[31-4914, added 1990, ch. 390, sec. 1, p. 1091.]

31-4915. COMPETITIVE BID LAWS. In the acquisition of public works or property, other than real property, a district shall comply with the competitive bid requirements applicable to counties of the state.

[31-4915, added 1990, ch. 390, sec. 1, p. 1091.]

31-4916. TRANSFER OF PROPERTY AUTHORIZED. Any county, city, other political subdivision, public or quasi-public entity, and the state and any agency or department thereof, shall have the power to sell, convey or transfer with or without consideration, or to lease, for any term and upon any consideration, any property, real or personal, to a district.

[31-4916, added 1990, ch. 390, sec. 1, p. 1091.]

31-4917. OPERATION OF LANDFILLS, DOMESTIC SEPTAGE RECEIVING STATIONS OR RESOURCE RECOVERY FACILITIES BY PARTICIPATING COUNTIES PROHIBITED. No participating county shall acquire, construct or operate, or continue the operation of, any landfill site, domestic septage receiving stations, or any facility for the recovery of resources or the disposal of solid waste or domestic septage, without the consent of the district board, after a solid waste disposal, or domestic septage receiving station, or resource recovery facility of a district is operational. The foregoing restriction shall not apply to a resource recovery facility which was operational at, or which becomes operational within six (6) months after, the date of establishment of the district. The district board may establish exceptions, consistent with applicable federal and state laws and regulations, to this requirement. The commissioners of the participating counties shall take all actions necessary to require that all solid waste or domestic septage collected within their respective jurisdictions be delivered to the district's solid waste or domestic septage disposal or resource recovery site or sites.

[31-4917, added 1990, ch. 390, sec. 1, p. 1091; am. 2001, ch. 175, sec. 6, p. 599.]

31-4918. LIABILITY OF PARTICIPATING COUNTY. Each participating county shall be liable for the payment of its allocated costs pursuant to section [31-4908](#), Idaho Code. Each participating county shall be liable for environmental costs only to the extent provided in the comprehensive environmental response compensation and liability act of 1980, as the same now exists or may hereafter be amended, or to the extent provided in other applicable state or federal laws.

[31-4918, added 1990, ch. 390, sec. 1, p. 1091.]

31-4919. INCLUSION OF ADDITIONAL COUNTIES. Any county which is not a participating county of a district may, with the consent of the district board and the consent of the commissioners of a majority of the participating counties, become a participating county of a district by adoption of a resolution in accordance with section [31-4903](#), Idaho Code.

[31-4919, added 1990, ch. 390, sec. 1, p. 1091.]

31-4920. WITHDRAWAL OF PARTICIPATING COUNTY. A participating county may, with the consent of the commissioners of not less than two-thirds (2/3)

of the remaining participating counties, expressed by resolution, withdraw from a district. A county withdrawing from a district shall not be entitled to reimbursement of any funds or to any proportionate share of the property of the district.

[31-4920, added 1990, ch. 390, sec. 1, p. 1092.]

31-4921. DISSOLUTION. A district may be dissolved by the unanimous action, expressed by resolution of the commissioners, of the participating counties; provided, that no dissolution shall occur while any indebtedness of the district remains outstanding unless provision for the payment of all such indebtedness first be duly made.

[31-4921, added 1990, ch. 390, sec. 1, p. 1092.]