

TITLE 70  
WATERCOURSES AND PORT DISTRICTS

CHAPTER 22  
COUNTY-BASED OR CITY-BASED INTERMODAL COMMERCE AUTHORITY

70-2201. COUNTY-BASED OR CITY-BASED INTERMODAL COMMERCE AUTHORITY AUTHORIZED. A county-based or city-based intermodal commerce authority, hereinafter referred to as the intermodal authority, is hereby authorized to acquire, construct, maintain, operate, develop and regulate rail, truck, and other on-land transfer and terminal facilities, buildings, warehouses and storage facilities, manufacturing, industrial and economic development facilities and services, reasonably incident to a modern, efficient and competitive land-based port, and may be established according to this chapter in any county or incorporated city.

[70-2201, added 2004, ch. 353, sec. 1, p. 1053; am. 2011, ch. 37, sec. 2, p. 87.]

70-2202. PURPOSE -- PUBLIC AND GOVERNMENT FUNCTIONS. The purposes of a county-based or city-based intermodal authority are to:

(1) Promote, stimulate and advance the commerce, economic development, and prosperity of its jurisdiction and of the state;

(2) Endeavor to increase the volume of commerce within the jurisdiction of the county or city through planning, advertising, acquisition, establishment, development, construction, improvement, maintenance, operation, regulation, and protection of transportation, storage, and other facilities that promote economic handling of commerce;

(3) Cooperate and act in conjunction with other organizations, either public or private, in the development of commerce, industry, manufacturing, services, natural resources, agriculture, livestock, recreation, and other economic activity in the state; and

(4) Support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industries, and assist in and support the growth of all kinds of economic activity that will tend to promote commerce and business development, maintain the economic stability and prosperity of its jurisdiction and of the state.

[70-2202, added 2004, ch. 353, sec. 1, p. 1053; am. 2011, ch. 37, sec. 3, p. 88.]

70-2203. ESTABLISHMENT AND ABOLISHMENT. (1) There is hereby created in each county and incorporated city an independent public body, corporate and politic, to be known as an intermodal commerce authority.

(2) No intermodal commerce authority and no county or city shall exercise the authority hereafter conferred by this chapter until after the county commissioners or city council members, after a public hearing, have adopted a resolution finding that:

(a) There are conditions in the county or city which will be benefited by the intermodal commerce authority to further the purposes set forth in section 70-2202, Idaho Code; and

(b) The county commissioners or city council members have reason to believe that the citizens of the county or city are supportive of the intermodal commerce authority.

(3) Upon the county or city making the findings set forth in subsection (2) of this section, the intermodal commerce authority is authorized to transact the business and exercise the powers hereunder by a board of commissioners to be appointed or designated as provided in section 70-2204, Idaho Code.

(4) After the establishment of an intermodal authority, any county or city may by resolution or ordinance, after a public hearing, abolish the intermodal authority provided that the payment of any bonds or other obligations of the intermodal authority shall not be adversely affected by such action.

(5) Notwithstanding any other provision of this section to the contrary, any intermodal authority existing as of July 1, 2006, is hereby validated.

[70-2203, added 2004, ch. 353, sec. 1, p. 1054; am. 2005, ch. 364, sec. 1, p. 1152; am. 2006, ch. 75, sec. 1, p. 229; am. 2011, ch. 37, sec. 4, p. 88.]

70-2204. COMMISSIONERS. (1) The powers of each intermodal authority are vested in the commissioners thereof. The resolution or ordinance setting forth the findings as provided in section 70-2203(2), Idaho Code, shall create the authority and shall include provisions for appointing a board of not fewer than three (3) commissioners for the authority to staggered terms and requiring bylaws for governance of the authority. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers for all other purposes. Action may be taken by the intermodal authority upon a vote of not less than a majority of the commissioners present for a meeting of the authority.

(2) Each intermodal authority must elect a chairman and vice-chairman from among the commissioners at a time and for terms as set out in the respective resolution or ordinance.

(3) An intermodal authority may employ such other officers, agents, and employees, permanent or temporary, as it may require. Commissioners shall determine necessary qualifications, duties and compensation for officers, agents and employees. An intermodal authority may delegate to one (1) or more of its agents or employees such powers or duties as it considers proper.

(4) A commissioner of an intermodal authority is entitled to receive reimbursement for expenses for travel and the discharge of his or her duties according to the policies of the governing body.

(5) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after such commissioner has been given a copy of the charges at least ten (10) days prior to such hearing and has had the opportunity to be heard in person or by counsel.

(6) Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the county or the city clerk, as appropriate, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

[70-2204, added 2004, ch. 353, sec. 1, p. 1054; am. 2006, ch. 75, sec. 2, p. 229; am. 2011, ch. 37, sec. 5, p. 88.]

70-2205. COOPERATION OF COUNTY OR CITY. (1) For the purpose of cooperating in the planning, establishment, construction or operation of an inter-

modal authority or any of its facilities, any governing body of the respective county or city for which an intermodal authority has been created may, upon such terms, with or without consideration, as it may determine:

- (a) Dedicate, sell, convey or lease any of its interest in any property or facility or grant easements, licenses, or any other rights or privileges therein to the intermodal authority;
- (b) Cooperate with the intermodal authority in the planning of an intermodal authority and its facilities; and
- (c) Enter into agreements with the intermodal authority respecting action to be taken by the county or city pursuant to the provisions of this section.

(2) After a public hearing, any sale, conveyance, lease or agreement provided for in this section may be made by a public body.

[70-2205, added 2004, ch. 353, sec. 1, p. 1054; am. 2006, ch. 75, sec. 3, p. 230; am. 2011, ch. 37, sec. 6, p. 89.]

70-2206. GENERAL POWERS OF A COUNTY-BASED OR CITY-BASED INTERMODAL COMMERCE AUTHORITY. An intermodal authority shall have the powers provided to it by a local county or city governing body including:

(1) Have perpetual succession unless abolished as provided in this chapter;

(2) Sue and be sued;

(3) Have a seal;

(4) Execute contracts and other instruments and take other action that may be necessary or convenient to carry out the purposes of this chapter;

(5) Plan, establish, acquire, develop, construct, purchase, enlarge, improve, modify, maintain, equip, operate, regulate and protect transportation, storage, or other facilities or other personal property necessary or convenient to carry out the purposes of this chapter;

(6) Acquire any land or interest in land. All land and other property and privileges acquired and used by or on behalf of any intermodal authority must be used for intermodal authority purposes. The property of an intermodal authority acquired or held for the purposes of this chapter is declared to be public property used for essential public and governmental purposes and, effective the date an intermodal authority acquires title to such property, it shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof; provided, that such tax exemption shall terminate when the authority sells or otherwise disposes of such property for development to a purchaser that is not a public body entitled to tax exemption with respect to such property. As specified in this chapter, a port authority may pledge, lease, sell, or mortgage all or any part of its facilities to secure bonds or for other financing purposes;

(7) Recommend to the county or city that created it, comprehensive county or city intermodal commerce authority zoning regulations in accordance with the laws of this state and the county or city governing body; and

(8) Provide financial and other support to corporations or other business entities or organizations under the provisions of Idaho law, whose purpose is to promote, stimulate, develop and advance the economic development and prosperity of its jurisdiction and of the state and its citizens by stimulating, assisting in, and supporting the growth of all kinds of economic activity, including the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the state, all of which will tend to promote business development, maintain the economic sta-

bility and prosperity of the state, and thus provide maximum opportunities for employment and improvement in the standards of living of citizens of the state.

[70-2206, added 2004, ch. 353, sec. 1, p. 1054; am. 2006, ch. 75, sec. 4, p. 230; am. 2011, ch. 37, sec. 7, p. 89.]

70-2207. RULES, POLICIES AND ORDERS. An intermodal authority may adopt, amend, and repeal such reasonable rules, policies and orders as it considers necessary for its own administration, management, and governance as well as for the management, governance, and use of any transportation, storage, or other facility owned by it or under its control. No rule, policy, order or standard prescribed by the intermodal authority may be inconsistent with or contrary to any act of the congress of the United States or any law, rule, ordinance or resolution of the state of Idaho or the local governing body creating the intermodal authority. The intermodal authority shall keep on file at the principal office of the intermodal authority a copy of all its rules, policies and orders for public inspection.

[70-2207, added 2004, ch. 353, sec. 1, p. 1055.]

70-2208. SUPPLEMENTARY POWERS. In addition to the general and special powers conferred by this chapter, each intermodal authority may exercise all powers delegated to it by the governing body creating it and powers incidental to the exercise of such general and special powers contained herein.

[70-2208, added 2004, ch. 353, sec. 1, p. 1055.]

70-2209. GRANTING OF OPERATION AND USE PRIVILEGES. In connection with the operation of transportation, storage, or other facilities owned or controlled by an intermodal authority, the intermodal authority may:

(1) Enter into contracts, leases, and other arrangements for terms not to exceed thirty (30) years:

(a) Granting the privilege of using or improving the intermodal authority facility or any portion or facility thereof or space therein for commercial purposes;

(b) Conferring the privilege of supplying goods, commodities, services or facilities at the intermodal authority facility; and

(c) Making available services to be furnished by the intermodal authority or its agents at the transportation, storage or other facility; and

(2) Establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which must be reasonable and uniform for the same class of privilege or service and must be established with due regard to the property and improvements used and the expenses of operation to the authority.

[70-2209, added 2004, ch. 353, sec. 1, p. 1055.]

70-2210. PROPERTY -- DISPOSAL. (1) Except as may be limited by the terms and conditions of any grant, loan or agreement entered into by the intermodal authority, notwithstanding the provisions in title 31, Idaho Code, an intermodal authority may, after a public hearing, sell, lease with a provision containing the right to transfer title or otherwise dispose of any transportation, storage or other facility or other property or portion of or interest in the intermodal authority's facility or property acquired pursuant to this chapter.

(2) Notice of the public hearing shall be posted at least fourteen (14) days prior to the date of the hearing in at least one (1) conspicuous place in the county or city to be determined by the commissioners of the authority. A copy of such notice shall also be published in a daily or weekly newspaper published within such county or city in one (1) issue thereof at least fourteen (14) days prior to the date of the hearing. The place, hour and day of such hearing shall be specified in the notice.

[70-2210, added 2004, ch. 353, sec. 1, p. 1056; am. 2006, ch. 75, sec. 5, p. 231; am. 2011, ch. 37, sec. 8, p. 90.]

70-2211. BONDS AND OBLIGATIONS. (1) An intermodal authority may borrow money for any of its lawful purposes and shall have the power to issue bonds from time to time in its discretion to finance the undertaking of any project or purpose under this chapter. Bonds shall be payable out of any revenue of the intermodal authority, including revenue derived from:

- (a) Any transportation, storage or other facility;
- (b) Grants or appropriations from federal, state or local governments;
- or
- (c) Other sources.

(2) The bonds may be issued by resolution of the intermodal authority without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then outstanding bonds for which revenue from the same source is pledged exceeds the amount of revenue to be received in that year, as estimated in the intermodal authority order authorizing the issuance of the bonds. The intermodal authority shall take all action necessary and possible to impose, maintain, and collect rates, charges and rentals sufficient to make the revenue from the pledged source in such year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and shall bear interest at such rate or rates as the issuing intermodal authority respectively shall determine. Except as otherwise provided in this chapter, any bonds issued pursuant to this chapter by an intermodal authority shall be payable as to principal and interest solely from revenue of the intermodal authority or from particular transportation, storage or other facilities of the intermodal authority. The bonds must state on their face the applicable limitations or restrictions regarding the source from which principal and interest are payable. In no circumstance shall the bonds be payable with a property tax.

(4) Bonds issued by an intermodal authority pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose and together with interest thereon and income therefrom, shall be exempted from all state and local taxes.

(5) For the security of bonds, the intermodal authority may by resolution make and enter into any covenant, agreement or indenture and may exercise any additional powers authorized by a county or city. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. As further security for the bonds, the intermodal authority, with the approval of the governing body of the county or city that created the authority, may pledge, lease, sell, mortgage, or grant a security interest in all or any portion of its intermodal authority,

transportation, storage or other facilities, whether or not the facilities are financed by the bonds. The instrument effecting the pledge, lease, sale, mortgage, or security interest may contain any agreements and provisions customarily contained in instruments securing bonds, as the commissioners of the intermodal authority consider advisable. The provisions must be consistent with this chapter and are subject to and must be in accordance with the laws of this state governing mortgages, trust indentures, security agreements, or instruments. The instrument may provide that in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement contained in the proceedings authorizing the bonds or instrument, the payment or performance may be enforced by the appointment of a receiver in equity. The receiver may collect charges, rents or fees and may apply the revenue from the mortgaged property or collateral in accordance with the provisions of the instrument.

(6) Nothing in this section may be construed to limit the use of intermodal authority revenue, including federal, state and local money to make grants and loans or to otherwise provide financial and other support to a private intermodal authority, including corporations and business entities operating under the provisions of Idaho law. The credit of the state, county or municipal governments or their agencies or authorities may not be pledged to provide financial support to the intermodal authority.

[70-2211, added 2004, ch. 353, sec. 1, p. 1056; am. 2006, ch. 75, sec. 6, p. 232; am. 2011, ch. 37, sec. 9, p. 90.]

70-2212. DEBT SERVICE FUND. An intermodal authority may create a debt service fund and accumulate therein a sum determined by the governing body, together with interest thereon, for the use, repairs, maintenance, and capital outlays of a county-based intermodal commerce authority.

[70-2212, added 2004, ch. 353, sec. 1, p. 1057.]

70-2213. FEDERAL, STATE AND LOCAL MONEY. An intermodal authority may accept, receive, receipt for, and spend federal, state and local money and other public or private money made available by grant, loan or appropriation to accomplish any of the purposes of this chapter and according to conditions of the grant, loan or appropriation. All federal money accepted under this section must be accepted and spent by the authority upon terms and conditions prescribed by the United States and consistent with state law. All state money accepted under this section must be accepted and spent by the intermodal authority upon terms and conditions prescribed by the state. All county or city money accepted under this section must be accepted and spent by the intermodal authority upon terms and conditions prescribed by the governing county or city.

[70-2213, added 2004, ch. 353, sec. 1, p. 1058; am. 2011, ch. 37, sec. 10, p. 92.]