



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720

JIM JONES
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

June 29, 1987

John Myers, Clerk
Gooding County Board of Commissioners
P.O. Box 417
Gooding, ID 83330

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Re: Recreation District and Hospital District

Dear Mr. Myers:

In your letter of May 20, 1987, you ask a question concerning the ability of a recreation district to levy and collect fees in lieu of ad valorem taxes. Additionally, you ask at what point can the fees be collected.

Idaho Code § 31-4318 allows a recreation district to levy a tax "in an amount not exceeding three (3) mills in any one (1) year on each one dollar (\$1.00) of the assessed valuation upon all of the taxable property within the district." This tax must be certified and collected in accordance with the provisions of Idaho Code §§ 63-621 through 63-624 and 63-918. In lieu of this ad valorem tax, a recreation district may impose and collect fees. Idaho Code § 63-2201A. These fees can constitute either a per household fee or a fee for services provided by the district.

If the recreation district chooses the ad valorem taxation method, then a delay in the collection of those taxes will occur until December and June of the fiscal year following certification of the tax. If the district chooses to charge a per household fee in lieu of the tax, it should do so by duly adopted rules by its board of directors. This particular type of fee will be collected just as an ad valorem tax, and should be certified to the county commissioners.

If the district chooses to charge a service fee, these fees can be collected before or after the services are provided. Thus, no lengthy wait for collection of the fees would be necessary.

Three caveats must be made with respect to the collection of fees. First, the district cannot charge both an ad valorem tax and a fee. Secondly, service fees must be related to the cost of providing the service and cannot be used as a means of raising additional revenue for the district. Finally, a per-household fee cannot exceed the three-mill limitation imposed by § 31-4318.

You also ask questions concerning your hospital district and the fact that you are changing the type of services offered to those that would be provided by a clinic. The questions are as follows:

1. Since there really is no longer a hospital, is the hospital district still valid? If so, what in fact is its status? If not, should it be done away with and how would this be accomplished?
2. Where does the County stand in regard to equipment bought by the Hospital Foundation over the years and placed in the hospital for use by the hospital? Much of this equipment is now redundant and should be disposed of. Should the proceeds go back to the Foundations or were the items gifts and the proceeds go into the County General Fund or be used for the operations of the remaining clinic?
3. It is becoming apparent in our rural area that our approach in the first place was misdirected and that an ambulance district would have been much more appropriate. The question has arisen concerning amendment of the hospital district scope to include ambulance support, thereby leaving the district intact but charged primarily with improving ambulance medical service along with keeping some ability to support clinic services as they stand at this point.

Once a hospital district is created by election, the county commissioners are obligated to comply with the provisions of Idaho Code §§ 39-1325 and 39-1326, certifying the results of the election and naming a board of directors. This board then becomes a separate political subdivision of the state

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responsible for the operation of publicly financed hospital services within the district. Idaho Code § 39-1331.

The nature of the services to be provided by the district is defined by Idaho Code § 39-1319, which reads as follows:

A "hospital district" is one to furnish general hospital services or medical clinic services to the general public and all other such services as may be necessary for the care of the injured, maimed, sick, disabled or convalescent patients. As used in sections 39-1318 through 39-1353 [39-1353a], Idaho Code, "medical clinic" means a place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical and emergency care of acute and chronic conditions or injury. [Emphasis added.]

This section of law does allow for a clinic and/or ambulance services by a hospital district. Therefore, in answer to your first question, the status of the hospital district still is valid even with the limitations described in your letter.

Commencing on July 1, 1987, a hospital district can be dissolved pursuant to the provisions of 1987 Idaho Session Laws, chapter 87 (copy enclosed). These new provisions also provide for the disposal of district property as mentioned in your second question. You should discuss with your commissioners and prosecutor whether the district should be dissolved and any questions on the disposition of the property.

As to your third question, if the hospital district is to remain in place, the scope and nature of the services to be provided by the district is a question to be determined by the hospital board of directors. Idaho Code § 39-1331. This can range from full hospital services to merely ambulance or clinical services as set forth above.

If our office can be of further assistance, please do not hesitate to contact us.

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Sincerely,

Daniel G. Chadwick

DANIEL G. CHADWICK
Acting Chief
Intergovernmental Affairs
Division

DGC/mkf

cc: Jim Poulson
Idaho Parks and Recreation

Enclosure

CHAPTER 87
(H.B. No. 172)

AN ACT

RELATING TO THE DISSOLUTION OF SPECIAL DISTRICTS; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 41, TITLE 63, IDAHO CODE, TO PROVIDE A SHORT TITLE; TO PROVIDE A DEFINITION OF "SPECIAL DISTRICT"; TO PROVIDE FOR HEARINGS AND ELECTIONS AS TO DISSOLUTION OF SPECIAL DISTRICTS; TO PROVIDE FOR DISSOLUTION OF INACTIVE DISTRICTS; TO PROVIDE FOR DISPOSITION OF PROPERTY AND FUNDS UPON DISSOLUTION; TO PROVIDE FOR PAYMENT OF INDEBTEDNESS UPON DISSOLUTION; TO PROVIDE FOR A SPECIAL TAX LEVY FOR PAYMENT OF DISTRICT INDEBTEDNESS; AND TO PROVIDE FOR VALIDITY OF OUTSTANDING OBLIGATIONS.

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

SECTION 1. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 41, Title 63, Idaho Code, and to read as follows:

63-4101. SHORT TITLE. This chapter may be known and cited as the "Special District Dissolution Act."

63-4102. DEFINITION. As used in this chapter, "special district" means any single purpose district organized or that may be organized as a local public body in accordance with the laws of the state of Idaho for the purpose of constructing or furnishing any municipal service where the district's enabling law does not provide for dissolution of any district formed under it.

63-4103. PETITIONS FOR DISSOLUTION OF SPECIAL DISTRICTS. Proceedings for the dissolution of a special district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to twenty-five percent (25%) of the largest number of persons who voted for any director in the last election of directors or if no election has been held within two (2) years then a petition may be initiated by twenty-five (25) or more qualified electors or property owners of the district.

The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1) county is involved. The county commissioners shall publish notice and hold a hearing on the matter. If necessary, they shall hold an election on the matter. The hearing and election shall be held in accordance with the terms and provisions of sections 40-1801 through 40-1809, Idaho Code.

63-4104. NONFUNCTIONING DISTRICT. Any special district which fails or has ceased to function for two (2) or more years may be dis-

solved by the board or boards of county commissioners of the county or counties in which it is located. The county commissioners may initiate such action upon their own volition or it may be initiated by petition.

63-4105. PROPERTY AND FUNDS -- DISPOSITION UPON DISSOLUTION. Title to all machinery, buildings, lands, and property of every kind and nature, belonging to a dissolved district shall immediately upon dissolution be vested in the board of county commissioners as custodians thereof; and thereafter as soon as may be practical the board shall dispose of the same. If the county and/or any incorporated cities are to continue providing the services formerly provided by the dissolved district, then the county commissioners and officials from such cities shall estimate the value of all such property and said property shall be transferred to any cities providing services formerly provided by the dissolved district in direct proportion to the portion of the dissolved districts total valuation for the preceding calendar year which is located within the city or cities, with the remaining portion of the property going to the county. If the county commissioners and officials from such cities determine that it is advantageous to dispose of the property at public or private sale, all funds arising from such sale or sales shall be deposited in the county treasury in a separate fund, together with other moneys belonging to such district, to be maintained by the treasurer, and from which debts of and claims against said districts shall be paid as hereinafter provided. All funds in the treasury of such district shall be delivered by the treasurer thereof to the treasurer of such county and deposited in a special fund, and all moneys thereafter accruing to such districts from collection of taxes and assessments levied or assessed prior to such dissolution, and all moneys belonging to such district from any source, shall likewise be placed in such special fund. Following the payment of debts and claims against such district, any moneys remaining in such special fund shall be distributed to any incorporated cities located within the boundaries of such district which are providing services formerly provided by such district in proportion to the portion of the total valuation of such district which is located within such cities. All remaining moneys after distribution to such cities shall be transferred to the current expense fund of the county.

If such district is located in more than one (1) county, then all authority vested in the county commissioners under this section shall be vested jointly in the several commissioners; provided, however, that any special fund established for the deposit of moneys accruing to such district shall be established in the treasury of the county which contains the greatest portion of the preceding year's valuation of the dissolved district and any property or moneys to be transferred to a county current expense fund shall be distributed to the counties in proportion to the portion of the valuation of the district which is located within each county but not including the valuation of any incorporated city which is providing services formerly provided by such district.

63-4106. PROVISION FOR PAYMENT OF INDEBTEDNESS UPON DISSOLUTION —SPECIAL TAX LEVY FOR PAYMENT OF DISTRICT INDEBTEDNESS. The board of county commissioners in the county or counties in which the dissolved district is located shall compute the total indebtedness of the district and shall provide for the payment thereof out of district funds on hand, or out of revenues to be raised by special levies, which shall be determined by the county or counties, and shall be certified to the clerk of the county board of commissioners of each of the counties wherein is situated any part of such district and such tax shall be levied and imposed by each of such counties upon such property of the district as may be within such county and the tax shall be collected, and not less than quarterly, shall be remitted to the treasurer of the county which contains the greatest portion of the preceding calendar year's valuation of the dissolved district, to be applied in payment of the indebtedness of such district as hereinafter provided.

At the next regular annual meeting of the board of commissioners of the county or counties in which the dissolved district is located at which levies for state and county purposes are fixed, and each year thereafter until all indebtedness of such district shall have been fully paid, such board shall, in addition to all other tax levies, levy a special tax upon all of the property situated within the former boundaries of such dissolved district, sufficient to raise by taxation funds for the payment of current and accruing terms and conditions of outstanding bonds of such district; and shall each year thereafter continue such levy, or make such other or additional levies as may be needed, to fully pay and retire the indebtedness of such district according to the terms and conditions thereof; and such taxes must be collected as are other county taxes and shall be turned over to the treasurer of the county which contains the greatest portion of the preceding calendar year's valuation of the district who must redeem or post for redemption all warrants and bonds as the same mature and in order of their line, and for which the treasurer has funds arising from such district for the payment of same.

Approved March 24, 1987.

CHAPTER 88
(H.B. No. 135)

AN ACT

RELATING TO CHILD CUSTODY INTERFERENCE; AMENDING CHAPTER 45, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-4506, IDAHO CODE, TO DEFINE THE ELEMENTS OF THE OFFENSE OF CHILD CUSTODY INTERFERENCE, TO PROVIDE AND DEFINE AFFIRMATIVE DEFENSES TO THE CRIME OF CHILD CUSTODY INTERFERENCE, TO PROVIDE A PENALTY, AND TO PROVIDE RESTITUTION.

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