

IN THE SENATE

SENATE BILL NO. 1006, As Amended

BY TRANSPORTATION COMMITTEE

AN ACT

1 RELATING TO THE IDAHO TRANSPORTATION BOARD; AMENDING SECTION 40-310, IDAHO  
2 CODE, TO PROVIDE THAT ABANDONMENT SHALL PROCEED PURSUANT TO LAW, TO RE-  
3 MOVE LANGUAGE RELATING TO CERTAIN POWERS AND DUTIES OF THE BOARD AS THEY  
4 RELATE TO A BOARD DECISION TO ABANDON, RELOCATE OR REPLACE CERTAIN HIGH-  
5WAYS; AND AMENDING SECTION 40-203B, IDAHO CODE, TO PROVIDE THAT PRIOR  
6 TO CONSENTING TO AN ABANDONMENT OR ASSUMING CONTROL OF AN APPLICABLE  
7 HIGHWAY, THE LOCAL HIGHWAY JURISDICTION MAY CONDUCT A PUBLIC HEARING  
8 AND PROVIDE NOTICE.  
9

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

11 SECTION 1. That Section 40-310, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 40-310. POWERS AND DUTIES -- STATE HIGHWAY SYSTEM. The board shall:

14 (1) Determine which highways in the state, or sections of highways,  
15 shall be designated and accepted for the purpose of this title as a part of  
16 the state highway system.

17 (a) In determining which highways or section of highways shall be a  
18 part of the state highway system, the board shall consider the rela-  
19 tive importance of each highway to cities, existing business, industry  
20 and enterprises and to the development of cities, natural resources,  
21 industry and agriculture and be guided by statistics on existing and  
22 projected traffic volumes. The board shall also consider the safety  
23 and convenience of highway users, the common welfare of the people of  
24 the state, and of the cities within the state and the financial capac-  
25 ity of the state of Idaho to acquire rights-of-way and to construct,  
26 reconstruct and maintain state highways. In making a determination,  
27 the board must, before it can abandon, relocate, or replace by a new  
28 highway, any highway serving or traversing any city, or the area in  
29 which the city is located, specifically find and determine that the  
30 benefits to the state of Idaho are greater than the economic loss and  
31 damage to the city affected. No highway serving or traversing any city  
32 shall be abandoned, relocated or replaced by a new highway serving the  
33 area in which a city is located without the board first holding a public  
34 hearing in that city. The abandonment shall proceed as set forth in  
35 section 40-203B, Idaho Code. Written notice setting forth the action  
36 proposed to be taken by the board shall be served upon the mayor of any  
37 city affected, and upon all property owners from which acquisition of  
38 right-of-way is necessary and from which that property must be pur-  
39 chased, by certified or registered mail, and shall also be published  
40 in at least one (1) issue of a newspaper published and of general cir-  
41 ulation in each city affected. If there is no newspaper published in  
42 the city, then a notice shall be posted in three (3) of the most public

1 places in the city. The notice shall contain a statement of any ac-  
 2 tion contemplated by the board affecting the city or property owner,  
 3 and shall specify the time and place of the hearing. At the hearing a  
 4 property owner from which right-of-way is necessary to be acquired and  
 5 from which that property must be purchased, and the governing body of  
 6 any city affected may appear, voice objections to the action proposed  
 7 to be taken by the board, and may present evidence and call witnesses in  
 8 support of their objections. The board shall give consideration to the  
 9 protests and objections and make a written decision determining whether  
 10 or not the proposed action would be of greater benefit to the state of  
 11 Idaho than the economic loss and damage resulting to the city. The board  
 12 shall serve a written decision upon the governing body of any affected  
 13 city and property owners within ten (10) days following the completion  
 14 of the hearing, and no action shall be taken by the board prior to the  
 15 service of the written decision.

16 (b) Within ten (10) days after the written decision has been served, an  
 17 appeal may be taken from the decision by the person from whom the prop-  
 18 erty must be purchased, the interested city, board of county commis-  
 19 sioners, or highway district commissioners to the district court in and  
 20 for the county in which the city affected by the order is located. The  
 21 appeal shall be taken and perfected in the following manner:

22 1. The appellant shall file with the clerk of the district court  
 23 of the proper county, and serve upon the board, notice specifying  
 24 the grounds of appeal, and a certified copy of the decision of the  
 25 board appealed from. The district court shall then have jurisdic-  
 26 tion of the matter and may make any order or judgment that the eq-  
 27 uities of the case require. Upon the appeal being perfected, the  
 28 appeal shall receive a preferential place on the calendar of the  
 29 district court.

30 2. The appeal shall be heard and determined by the district court  
 31 in a summary manner as in a suit in equity, and the trial shall be a  
 32 trial de novo on the issues framed. The court may affirm, reverse,  
 33 or modify the order appealed from and may issue injunctions when-  
 34 ever it appears necessary for the protection of the interests of  
 35 any party to the appeal.

36 3. No bond or undertaking shall be required of any party appealing  
 37 under any of the provisions of this section.

38 4. The filing fees required in the district court shall be the same  
 39 as is provided for filing cases originally in the court.

40 (c) Any final order or judgment of the district court under this sub-  
 41 section shall be appealable to the supreme court of the state of Idaho  
 42 within thirty (30) days following the entry of the final order or judg-  
 43 ment in the same manner as appeals in civil actions are taken to the  
 44 supreme court.

45 (d) The board shall take no action on any matter affecting any property  
 46 owner from which right-of-way is necessary to be acquired or any city  
 47 until either:

48 1. The time has elapsed for an appeal to the district court and no  
 49 appeal has been filed; or

1           ~~2. If an appeal has been taken to the district court, then until~~  
2           ~~the time for appeal from its final order or judgment to the supreme~~  
3           ~~court has elapsed and no appeal has been taken; or~~

4           ~~3. If an appeal has been taken to the supreme court, then until the~~  
5           ~~matter has been finally determined by that court.~~

6           (2) The board shall cause to be prepared and publicly displayed in a  
7           conspicuous place in their offices a complete map of the state highway sys-  
8           tem in which each section shall be identified by location, length and a con-  
9           trol number. The map shall be of a suitable size and scale and contain data  
10          and information as deemed appropriate by the board. Periodically, and not  
11          less than once each year, the board shall revise and correct the map to record  
12          the changes in the designated state highway system resulting from additions,  
13          abandonments and relocations. Hand maps of the state highway system shall be  
14          issued periodically for public distribution.

15          (3) Abandon the maintenance of any highway and remove it from the state  
16          highway system, when that action is determined by the unanimous consent of  
17          the board to be in the public interest.

18          (4) Locate, design, construct, reconstruct, alter, extend, repair and  
19          maintain state highways, and plan, design and develop statewide transporta-  
20          tion systems when determined by the board to be in the public interest.

21          (5) Establish standards for the location, design, construction, re-  
22          construction, alteration, extension, repair and maintenance of state high-  
23          ways, provided that standards of state highways through local highway juris-  
24          dictions shall be coordinated with the standards in use for the systems of  
25          the respective local highway jurisdictions. The board shall make agreements  
26          with local highway jurisdictions having within their limits state highway  
27          sections in the category described in section 40-502, Idaho Code, and pro-  
28          vide for an equitable division of the maintenance of those sections. The  
29          board may also, in the interest of economy and efficiency, arrange to have  
30          any or all of the state highway sections within local highway jurisdictions  
31          maintained by those local highway jurisdictions, the cost of the work as lim-  
32          ited by section 40-502, Idaho Code, to be reimbursed by the state.

33          (6) Cause to be made and kept, surveys, studies, maps, plans, specifi-  
34          cations and estimates for the alteration, extension, repair and maintenance  
35          of state highways, and so far as practicable, of all highways in the state,  
36          and for that purpose to demand and to receive reports and copies of records  
37          from county commissioners, commissioners of highway districts, county engi-  
38          neers and directors of highways and all other highway officials within the  
39          state.

40          (7) Approve and determine the final plans, specifications and esti-  
41          mates for state highways and cause contracts for state highway work to be let  
42          by contract in the manner provided by law.

43          (8) Expend funds appropriated for construction, maintenance and im-  
44          provement of state highways.

45          (9) Designate state highways, or parts of them, as controlled-access  
46          facilities and regulate, restrict or prohibit access to those highways to  
47          serve the traffic for which the facility is intended.

48          (10) Close or restrict the use of any state highway whenever the closing  
49          or restricting of use is deemed by the board to be necessary for the protec-

1 tion of the public or for the protection of the highway or any section from  
2 damage.

3 (11) Designate main traveled state highways as through highways. The  
4 traffic on through highways shall have the right-of-way over the traffic on  
5 any other highway intersecting with it, provided, that at the intersection  
6 of two (2) through highways the board shall determine which traffic shall  
7 have the right-of-way.

8 (12) Furnish, erect and maintain standard signs on side highways di-  
9 recting drivers of vehicles approaching a designated through highway to come  
10 to a full stop before entering or crossing the through highway.

11 (13) Provide a right-of-way for and supervise the construction of side  
12 paths or sidewalks along regularly designated state highways outside the  
13 boundaries of incorporated cities and the expenditures for the construction  
14 of them may be made from the highway funds of the county or highway districts.

15 (14) Upon certification and requisition of an appropriate board, com-  
16 mission, governing body, or official head of any state institution and on the  
17 approval of the governor, showing the same to be necessary, construct, al-  
18 ter, repair, and maintain the roadways in, through, and about the grounds of  
19 state institutions. The construction, alteration, repair and maintenance  
20 shall be accomplished and paid for from the state highway account in accor-  
21 dance with the provisions of chapter 7, title 40, Idaho Code. This provision  
22 shall not be construed to divest any board, commission, governing body, or  
23 official head of an institution their constitutional or statutory powers.

24 SECTION 2. That Section 40-203B, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 40-203B. ABANDONMENT OR ASSUMING CONTROL OF A HIGHWAY. Whenever the  
27 Idaho transportation department is either planning to abandon any section  
28 or all of a state highway to a county, a city or a highway district or as-  
29 sume control of a section or all of a highway which is under the jurisdic-  
30 tion of a county, city or a highway district, the transportation department  
31 shall first obtain the consent of the applicable local highway jurisdiction  
32 before it may abandon or assume control of the highway. Consent shall be ob-  
33 tained by passage of a resolution by the local highway jurisdiction assent-  
34 ing to the proposed action of the transportation department. Prior to con-  
35 senting to an abandonment or assumption of the applicable highway, the local  
36 highway jurisdiction may conduct a public hearing and also provide notice to  
37 any impacted property owners, businesses, industries and enterprises. If  
38 consent is not obtained as provided in this section, the action by the trans-  
39 portation department regarding the abandonment of a state highway or assump-  
40 tion of control of a local jurisdiction highway shall be null, void, and of no  
41 force and effect.