



Limitations On County & Municipal Indebtedness

Question:

Can the Board approve contracts or leases beyond one year? If not, what law prohibits this?

Answer:

The limitation precluding indebtedness beyond one (1) year is in the Idaho Constitution which provides:

Article VIII, Section 3. LIMITATIONS ON COUNTY AND MUNICIPAL INDEBTEDNESS. **[No school district] shall incur any indebtedness, or liability, in any manner, or for any purpose, exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds of the qualified electors thereof voting at an election to be held for that purpose, nor unless, before or at the time of incurring such indebtedness, provisions shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof, within thirty years from the time of contracting the same. Any indebtedness or liability incurred contrary to this provision shall be void:** Provided, that this section shall not be construed to apply to the ordinary and necessary expenses authorized by the general laws of the state and provided... that any city or other political subdivision of the state may own, purchase, construct, extend, or equip, within and without the corporate limits of such city or political subdivision, water systems, sewage collection systems, water treatment plants, sewage treatment plants, and may rehabilitate existing electrical generating facilities, and for the purpose of paying the cost thereof, may, without regard to any limitation herein imposed, with

the assent of a majority of the qualified electors voting at an election to be held for that purpose, issue revenue bonds therefor, the principal and interest of which to be paid solely from revenue derived from rates and charges for the use of, and the service rendered by such systems, plants and facilities, as may be prescribed by law; ...

All debts beyond one year which are not approved by the voters requires Court approval as an Ordinary and Necessary expense(O&N) – which is easier said than done. An SIS system would likely not qualify as O&N.

However, Idaho Code does allow a three year lease, provided the following required terms are in the Lease Agreement:

33-601A. LEASING OF GOODS, EQUIPMENT, BUSES AND PORTABLE CLASSROOMS. No provision of chapter 6, title 33, or chapter 28, title 67, Idaho Code, shall be construed to prevent a board of trustees from entering into lease-purchase agreements for goods, equipment, buses or portable classrooms, provided the agreement is in writing and meets all of the following requirements:

- (1)** The annual lease payments shall reflect reasonable compensation for use;
- (2)** No penalty shall be imposed on the school district for proper cancellation of the lease;
- (3)** The right to exercise the option to purchase shall be at the sole discretion of the school district; and
- (4)** The cost of purchase shall not exceed the reasonable value of the goods, equipment, buses or portable classrooms as of the time the option to purchase is exercised.

For the purposes of this section, "portable classroom" means a facility which is not so related to particular real estate that an interest in it arises under real estate law.