

IDAHO COUNTY ORDINANCE NO. 62

AN ORDINANCE ESTABLISHING COUNTY CRITERIA FOR GRANTING PROPERTY TAX EXEMPTIONS PURSUANT TO IDAHO CODE 63-602NN

WHEREAS, Idaho Code 63-602NN provides that the Board of County Commissioners of counties may grant tax exemptions to incentivize business investment; and;

WHEREAS, in 2017, the Idaho Legislature enacted House Bill 235, which envisions that the Board of County Commissioners may enact an ordinance to establish certain criteria for granting such incentives; and

WHEREAS, the Idaho County Board of County Commissioners desires to establish criteria and guidelines for granting such exemptions in Idaho County to provide for uniformity and transparency.

NOW THEREFORE, BE IT ORDAINED by the Idaho County Board of County Commissioners as follows:

There is established in the County of Idaho, State of Idaho, a new ordinance setting forth criteria and guidelines for granting property tax exemptions under Idaho Code 63-602NN.

Nothing contained in this Ordinance shall be interpreted or construed as a creation of, or an acknowledgement of, any right or entitlement to receive a property tax exemptions under Idaho Code 63-602NN. The Board of County Commissioners is the sole authority for determining the benefits of a proposed investment and retains exclusive authority to determine whether a property tax exemption under Idaho Code 63-602NN is an appropriate incentive in any event.

SECTION I. TITLE: This ordinance shall be known as the Idaho County Business Investment Incentive Ordinance of 2017.

SECTION II. AUTHORITY AND PURPOSE: This Ordinance is enacted pursuant to authority conferred by Article 12, Section 2, Idaho Constitution, and Idaho Code 31-714, 31-801, and 63-602NN.

The purpose of this Ordinance is to provide objective criteria for determining the amount of incentive tax relief that is proportional to the significant economic benefits produced by a proposed project. Placing these criteria in an ordinance provides prospective applicants with information for planning and makes the process more transparent.

Because property tax incentives effectively shift the tax burden to other taxpayers, it is important that significant benefits accrue to the public good, primarily in the form of high-paying jobs and increased property values. As a result, exemptions should not be granted unless the Board of County Commissioners (“Board”) finds that a combination of direct and indirect benefits to the community from a proposed project substantially exceeds the projected cost of the tax shift. These criteria are intended to help make those determinations.

While the purpose of property tax incentives is to both attract new businesses and retain existing business, relevant incentives may differ. Therefore, in some respects, new and existing businesses are evaluated differently.

SECTION III. DEFINITIONS AND ACRONYMS; The words and phrases included in this Ordinance shall be given their regular and ordinary meaning. Legal terms shall be given the meanings applicable to Idaho Code 63-602NN when applicable, and when not defined therein, as otherwise provided by applicable Idaho Law.

SECTION IV. PRELIMINARY NEGOTIATIONS: Prospective applicants, or their authorized agents, may request to meet with the Board to engage in preliminary negotiations and discussions regarding incentives. Applicants may operate under a pseudonym and meetings may be held in executive session under Idaho Code 74-206(1)(e) if an agent of the prospective applicant with authority to negotiate is present and when approved by the Board.

SECTION V. PROJECT PLAN: Prior to completing an application, prospective applicants should prepare a written project plan that addresses all requirements under Idaho Code 63-602NN. The project plan can be used during preliminary negotiations, and must be included as proposed exemptions should be part of the project plan.

SECTION VI. APPLICATION: In order to be considered, an application must include a project plan. An application can be filed under a pseudonym, but no application will be granted until 1) the prospective applicant has secured the right to obtain or secure a particular property, and 2) the applicant is prepared to make the project public. No exemption can be granted under a pseudonym. Application must be made on a form provided by the Assessor’s Office.

SECTION VII. APPROVAL PROCESS: Applications will initiate final negotiations and preparation of documents that will be necessary for the Board to consider and approve an exemption. Once documents are prepared, a public meeting will be placed on the Board’s agenda and notice will be provided as required by Idaho Code 63-602NN(5). At the public meeting, the Board will consider the application and make determinations regarding whether exemptions will be granted, and if so, to what extent. In doing so, the Board will be guided by the criteria set forth in this Ordinance. Applicants must be prepared to have their identity made public once the public meeting is scheduled.

SECTION VIII. NEW BUSINESS INVESTMENT: It is the intent of the Board to provide incentives for investments in new business where the new business:

1. Demonstrates and certifies that “but for the incentive”, the business would not locate in the County, but would locate at another specific locale;
2. Creates jobs that pay competitive wages that exceed the average wage (including benefits) for the County as determined by the State of Idaho;
3. Demonstrates significant indirect benefits; and
4. Agrees to all terms and conditions imposed by the Board, including, but not limited to, recouping waived property taxes.

Businesses that meet these criteria may be eligible for the following incentives:

Level I Investment

Investment \$500,000 to \$3,000,000

Net new job creation--ten (10) or more

Exemption--up to 40% for up to three (3) years

Level II Investment

Investment \$3,000,001 or more

Net new job creation--twenty (20) or more

Exemption--up to 55% for up to five (5) years

Both the investment and job creation requirements of a level must be met to be eligible for that level. Investment includes only qualified investments as defined by Idaho Code 63-602NN. In no event can an exemption be made unless it qualifies under Idaho Code 63-602NN.

SECTION IX. NEW INVESTMENT IN EXISTING BUSINESS: It is the intent of the Board to provide incentives for investments in existing business under the same criteria and limitations as set forth in Section VIII, with the following modifications:

1. Investment includes only qualified investments as defined by Idaho Code 63-602NN, not including replacement equipment; and
2. The existing business may be eligible for a reduced exemption as follows:

Level I Investment

Investment \$500,000 to \$3,000,000

Exemption--up to 25% for up to three (3) years

Level II Investment

Investment \$3,000,001 or more

Exemption--up to 30% for up to five (5) years

SECTION X. ON-GOING VALUATION OF PROPERTY: In order to avoid value disputes immediately after the expiration of any exemptions granted under this Ordinance, as a condition

of receiving an exemption, a recipient must agree that all property subject to an exemption will, after expiration of the exemption, be valued for assessment purposes at the capitalized value for the life of the investment using state tax commission schedules.

SECTION XI. ANNUAL REPORT AND REVIEW: No later than the first day of March each year, beginning the year an exemption is effective, and continuing each year thereafter until the exemption ends, each recipient of an exemption under this Ordinance shall submit a report and certification of compliance. The report shall contain, at a minimum, the following:

1. The average number of full-time employees during the previous calendar year;
2. A schedule of the employee positions, together with salaries paid, and employee benefit costs listed separately, together with copies of each Employer Quarterly Unemployment Insurance Tax Report for the previous calendar year;
3. An itemized list of all new equipment and the cost and capitalization of each; and
4. A compliance statement explaining whether recipient is in compliance with the terms and conditions of the exemption, and fully explaining any areas of non-compliance.

Failure to timely submit a complete annual report is grounds for immediately terminating an exemption.

The annual report shall be submitted to the Assessor's Office, with a copy provided to the Idaho County Commissioners.

SECTION XII. SEVERABILITY CLAUSE: Should any provision of the Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance in whole or in part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION XIII. EFFECTIVE DATE: This Ordinance shall be in full force and effect upon its passage, approval and publication by summary, as provided by law, in one issue of the Idaho County Free Press.

R. Skipper Brandt
R. Skipper Brandt Chairman,

Yes	No	Did Not Vote
<u>x</u>	_____	_____

Mark Frei
Mark Frei

<u>x</u>	_____	_____
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Denis B. Duman
Denis B. Duman

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ATTEST: Kathy M. Ackerman, Clerk
Kathy M Ackerman

