

Constitutional Amendment HJR7

The Idaho Constitution requires voter approval for multi-year debts and liabilities of local governments. The requirement applies to bonded indebtedness, as well as contract obligations, but does not apply to “ordinary and necessary expenses” of local government. In 2006, the Idaho Supreme Court issued a decision holding that a long-term lease obligation incurred to finance an airport parking garage was not an “ordinary and necessary expense”. This decision created uncertainty as to the legality of many other types of local indebtedness which previously had been allowed under the ordinary and necessary expense exception. In particular, it cast doubt on the authority of Idaho cities to enter into long-term power purchase contracts, including contracts with the Bonneville Power Administration. Idaho power cities have routinely signed such Agreements with BPA since the early 1960's.

In a split decision issued in July, 2010, the Idaho Supreme Court applied its earlier interpretation of the “ordinary and necessary” provision to Idaho Falls’ contract with BPA. Under this decision, voters would have to approve the BPA Contract, as well as every other wholesale power purchase contract that extends beyond one budget year. Typically, Idaho Falls enters into three to four of such power purchase contracts every fiscal year in order to meet the electrical energy needs of its customers.

In the 2010 Legislative session, Idaho lawmakers voted to place on the November general election ballot House Joint Resolution 7 (HJR7), which will amend Article VIII, Section 3 of the Idaho Constitution to allow Idaho municipal utilities to acquire electrical energy through a power purchase contract without having to seek a public vote every time the utility wishes to purchase power in the ordinary course of business. HJR7 will also allow municipal electric utilities to issue voter-approved revenue bonds to finance electric generating, transmission and distribution facilities. The revenue bonds must be payable solely from the revenues derived from the electric system, and are not secured by the taxing power of the city and state. The cost and practicality of conducting multiple elections to authorize these power purchase agreements is a key issue in the election. Whether or not voting of power purchase contracts will hamper acquisition of necessary energy supplies or is necessary to protect citizens from improvident power purchases, are also key issues in the ballot initiative.

Passage of this constitutional amendment requires a majority of all Idaho voters, not just the citizens served by the power cities. We encourage all Idaho citizens to become informed on this very important issue and to vote at the general election in November.