

IN THE SENATE

SENATE BILL NO. 1225

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5233, IDAHO CODE,  
2 TO PROVIDE THAT CERTAIN ASSESSMENTS TO REPAY DEBT MUST BE APPROVED AT  
3 AN ELECTION; AMENDING SECTION 42-5234, IDAHO CODE, TO PROVIDE THAT CER-  
4 TAIN OBLIGATIONS OR CONTRACT INDEBTEDNESS MUST BE SUBMITTED TO A VOTE OF  
5 QUALIFIED ELECTORS IN THE DISTRICT; AND AMENDING SECTION 42-5235, IDAHO  
6 CODE, TO REVISE PROVISIONS REGARDING JUDICIAL EXAMINATION PRIOR TO IN-  
7 CURRING INDEBTEDNESS.  
8

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

10 SECTION 1. That Section 42-5233, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 42-5233. POWER TO INCUR INDEBTEDNESS -- ASSESSMENTS TO SECURE RE-  
13 PAYMENT -- WARRANTS. (1) In order to secure funds for the mitigation plan  
14 or plans for the district, the board of directors may, by resolution duly  
15 adopted and entered upon the minutes, incur indebtedness by contract with a  
16 money lending institution; provided however, that the term of such indebt-  
17 edness shall not exceed thirty (30) years. To secure the repayment of any  
18 indebtedness so incurred, the board shall levy assessments over the term of  
19 the indebtedness in amounts sufficient to repay the interest and principal  
20 as it falls due. Such assessments shall be levied in the manner and shall be  
21 subject to the limitations set forth in section 42-5232, Idaho Code, ~~and~~  
22 Assessments to repay debt with a term exceeding one (1) year may be levied  
23 only if the indebtedness has been approved at an election pursuant to sec-  
24 tions 42-5234 through 42-5238, Idaho Code.

25 (2) Notwithstanding the provisions of subsection (1) of this section,  
26 the board of directors may, before the collection of the first assessment,  
27 incur indebtedness for the purpose of organization, or for any of the pur-  
28 poses of this chapter, and cause warrants of the district to issue therefor,  
29 provided that the total dollar amount of the warrants authorized to be is-  
30 sued shall not exceed three dollars (\$3.00) for each two-hundredths (.02) of  
31 a cubic foot per second of ground water authorized to be diverted and used  
32 upon lands or facilities located within the district. Following the col-  
33 lection of the first assessment, the board of directors may at any time is-  
34 sue warrants of the district for the purpose of paying claims of indebtedness  
35 against the district, including salaries of officers and employees, not to  
36 exceed the district's anticipated revenue.

37 (3) The warrants herein authorized shall be in form and substance the  
38 same as county warrants or as nearly the same as may be practicable and shall  
39 be signed by the chairman and attested by the secretary of said board. All  
40 such warrants shall be presented by the holder thereof to the treasurer of  
41 the district for payment who shall endorse thereon the day of presentation  
42 for payment with the additional endorsement thereon, in case of nonpayment,

1 that they are not paid for want of funds, and such warrants shall draw in-  
2 terest at a rate to be established by the board of directors from the date of  
3 their presentation to the treasurer for payment as aforesaid until such war-  
4 rants are paid. No warrants shall be issued in payment of any indebtedness  
5 of such district for less than face or par value. It shall be the duty of  
6 the treasurer from time to time when sufficient funds are available for that  
7 purpose to advertise in a newspaper in the county in which the district is  
8 situated requiring the presentation to the treasurer for payment of as many  
9 of the outstanding warrants as are able to be paid. Ten (10) days after the  
10 first publication of said notice by the treasurer calling in any of said out-  
11 standing warrants, said warrants shall cease to bear interest, which shall  
12 be stated in the notice. Said notice shall be published two (2) weeks con-  
13 secutively and said warrants shall be called in and paid in the order of their  
14 endorsement.

15 SECTION 2. That Section 42-5234, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 42-5234. ELECTION FOR INDEBTEDNESS -- REFERENDUM PETITION. (1) The  
18 board may by resolution adopted by a two-thirds (2/3) majority of the board,  
19 determine that the interest of the district and the public interest and ne-  
20 cessity demand the development and operation of a mitigation plan and shall  
21 set forth the amount of obligation or contract indebtedness proposed to be  
22 issued by the district under the provisions of this chapter for the devel-  
23 opment of such mitigation plan. If any obligation or contract indebtedness  
24 has a repayment term exceeding one (1) year, tThe board shall submit the  
25 obligation or contract indebtedness in the proposed resolution to a vote of  
26 the qualified electors of the district as defined in section 42-5210, Idaho  
27 Code, at an election to be held only if within fifteen (15) days after the  
28 passage of such resolution a referendum petition signed by qualified elec-  
29 tors of the district whose aggregate ground water rights equal not less than  
30 ten percent (10%), measured in cubic feet per second, of the aggregate ground  
31 water rights of all qualified electors of the district, shall be filed with  
32 the secretary of the district requesting that an election upon the issuance  
33 of the contract indebtedness be held and conducted under the provisions of  
34 this section. Any election required to be held pursuant to a referendum pe-  
35 tition filed in accordance with this section for the purpose of submitting  
36 any proposition or propositions of incurring such obligation or indebt-  
37 edness shall be held in accordance with section 34-106, Idaho Code. The  
38 resolution, in addition to such declaration of public interest or necessity,  
39 shall recite the objects and purposes for which the indebtedness is proposed  
40 to be incurred, the estimated cost of the mitigation plan, the amount of  
41 principal of the indebtedness to be incurred therefor, and the sources of  
42 the revenues and assessments pledged to the payment of the indebtedness.  
43 The separate election upon the assessments, shall be held at the same time  
44 as and shall be combined with any such election required to be held upon the  
45 indebtedness question pursuant to a referendum petition.

46 (2) Any election for indebtedness required to be held hereunder shall  
47 be called by resolution, which resolution shall also fix the date upon which  
48 such election shall be held, the manner of holding the same and the method  
49 of voting for or against the incurring of the indebtedness. Such resolu-

1 tion shall also fix the compensation to be paid the officers of the election  
2 and shall designate the precincts and polling places and shall appoint for  
3 each polling place, from each precinct from the electors thereof, the of-  
4 ficers of such election, which officers shall consist of three (3) judges,  
5 one (1) of whom shall act as clerk, who shall constitute a board of election  
6 for each polling place. The description of precincts may be made by refer-  
7 ence to any order or orders of the county commission of the county or coun-  
8 ties in which the district or any part thereof is situated, or by reference  
9 to any previous order, or resolution of the board or by detailed description  
10 of such precincts. Precincts established by the county commissions of the  
11 various counties may be consolidated for special elections held hereunder.  
12 In the event any such election shall be called to be held concurrently with  
13 any other election or shall be consolidated therewith, the resolution call-  
14 ing the election hereunder need not designate precincts or polling places  
15 or the names of officers of election, but shall contain reference to the act  
16 or order calling such other election and fixing the precincts and polling  
17 places and appointing election officers therefrom. The resolution calling  
18 the election shall prescribe an official notice of election, which notice  
19 shall be published once a week for two (2) consecutive weeks, the last publi-  
20 cation of which shall be at least ten (10) days prior to the date set for said  
21 election, in a newspaper of general circulation printed and published within  
22 the district, and no other or further notice of such election or publication  
23 of the names of election officers or of the precincts or polling places need  
24 be given or made.

25 (3) The respective election boards shall conduct the election in their  
26 respective precincts in the manner prescribed by law for the holding of dis-  
27 trict elections to the extent the same shall apply and shall make their re-  
28 turns to the district secretary. At any regular or special meeting of the  
29 board held not earlier than five (5) days following the date of such elec-  
30 tion, the returns shall be canvassed and the results declared.

31 (4) If no referendum petition is filed, or if so filed, if it shall ap-  
32 pear from the returns that the qualified electors of the district represent-  
33 ing two-thirds (2/3) of the aggregate ground water rights of the district,  
34 such fraction computed according to cubic feet per second, have voted in fa-  
35 vor of the proposition, the district thereupon shall be authorized to incur  
36 such indebtedness or obligations, or enter into such contracts, all for the  
37 purposes provided for in the proposition submitted in the resolution, and  
38 in the amount so provided. Submission of the proposition of incurring such  
39 obligation or other indebtedness at such an election shall not prevent or  
40 prohibit submission of the same or other propositions at subsequent election  
41 or elections called for such purpose.

42 SECTION 3. That Section 42-5235, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 42-5235. JUDICIAL EXAMINATION. (1) Prior to the incurring of indebt-  
45 edness with a repayment term exceeding one (1) year, the board shall file a  
46 petition in the district court of the county in which the office of the board  
47 is located, pursuant to the provisions of sections 43-406 through 43-408,  
48 Idaho Code, as if the district were an irrigation district. Whenever any  
49 district which is required to file a petition hereunder has or proposes to

1 enter into a contract or contracts with one (1) or more districts pursuant  
2 to law, and such other district or districts is authorized or required to  
3 bring a confirmation proceeding or proceedings pursuant to the provisions  
4 of section 43-406 or section 43-1808, Idaho Code, with respect to such con-  
5 tracts or the levy of assessments or the apportionment of costs, the boards  
6 of each of such other districts shall join in the filing of such petition,  
7 and the district court in which such petition is filed shall have jurisdic-  
8 tion to hear the petition and to grant the relief prayed for therein. Each  
9 such petition shall pray for a judicial examination and determination of  
10 any power conferred hereby or by any amendment hereto or of any assessment  
11 levied or of any apportionment of costs or of any act, proceeding or con-  
12 tract of the district or districts, whether or not said contracts shall have  
13 been executed, including, without limitation, proposed contracts for the  
14 reconstruction, rehabilitation, replacement and improvement of any well  
15 and other related structures and works and appurtenances, falling water  
16 contracts, contracts with other districts and contracts with other public  
17 and private persons, firms, corporations and associations. Such petition  
18 shall set forth the facts whereon the validity of such powers, assessments,  
19 apportionments, acts, proceedings or contracts is founded. Notice of the  
20 filing of said petition shall be given by the clerk of the court by mailing,  
21 and by publication in at least one (1) newspaper published and of general  
22 circulation within the boundaries of each district joining in the petition,  
23 or if no newspaper is so published within any district, then in a newspaper  
24 published in the same county in which any part of such district is located  
25 which is of general circulation in such district, pursuant to and in accord-  
26 dance with the requirements of section 43-407, Idaho Code, as if the district  
27 were an irrigation district under the seal thereof, stating in brief outline  
28 the contents of the petition and showing where a full copy of any contract or  
29 contracts, therein mentioned, may be examined.

30 (2) Any ground water user in any district joining in the petition or  
31 any other person interested in the contracts or proposed contracts may ap-  
32 pear and answer the petition at any time prior to the date fixed for the hear-  
33 ing or within such further time as may be allowed by the court; and the pe-  
34 tition shall be taken as confessed by all persons who fail so to appear. The  
35 said petition and notice shall be sufficient to give the court jurisdiction  
36 and, upon hearing, the court shall examine into and determine all matters  
37 and things affecting the question submitted, shall examine all of the pro-  
38 ceedings of all of the districts as set forth in the petition, shall hear all  
39 objections either filed in the proceeding or brought up from the hearings  
40 before any of the boards, shall correct all errors in the assessments and  
41 apportionments of costs, shall ratify, approve and confirm all apportion-  
42 ments of costs and assessments levied, shall make such findings with refer-  
43 ence thereto and render a judgment and decree thereon approving and confirm-  
44 ing all of the powers, assessments, apportionments, acts, proceedings and  
45 contracts of each of the districts as set forth in the petition as the case  
46 warrants. Costs may be divided or apportioned among the contesting parties  
47 in the discretion of the trial court. Review of the judgment of the court  
48 may be had as in other similar cases. The Idaho rules of civil procedure  
49 shall govern in matters of pleading and practice where not otherwise spec-  
50 ified herein. The court shall disregard any error, irregularity or omission

1    which does not affect the substantial rights of the parties. Except as pro-  
2    vided herein, the provisions of sections 43-406 through 43-408, Idaho Code,  
3    shall apply to the proceeding herein authorized as though the ground water  
4    district were an irrigation district.