

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 161

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FLOOD CONTROL DISTRICTS; AMENDING SECTION 42-3113, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING MEETINGS OF THE BOARD OF COMMISSIONERS
3 OF A FLOOD CONTROL DISTRICT AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
4 SECTION 42-3114, IDAHO CODE, TO REVISE A PROVISION REGARDING COMPENSA-
5 TION OF COMMISSIONERS; AMENDING SECTION 42-3115, IDAHO CODE, TO REVISE
6 A PROVISION REGARDING THE POWERS AND DUTIES OF THE COMMISSIONERS AND TO
7 MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN
8 EFFECTIVE DATE.
9

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

11 SECTION 1. That Section 42-3113, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 42-3113. MEETINGS OF BOARD -- REGULAR -- SPECIAL. (1) The board shall
14 designate the official location of ~~their~~ its office, ~~which shall be within~~
15 ~~said district that may be within or outside of the district's boundaries.~~

16 (2) Regular meetings of the board shall be held ~~monthly on a uniform~~
17 ~~day of a uniform week as shall be determined by the board except that by and~~
18 ~~with the prior approval of the director monthly meetings may be suspended and~~
19 ~~meetings may be held quarterly. Such regular meetings shall be held at a time~~
20 ~~and place to be fixed by the board. The board shall send a certified true copy~~
21 ~~of their order fixing~~ written notice with the official location of their its
22 office, and the time and place of ~~their~~ its regular meetings to the depart-
23 ~~ment of water resources and to any agency of the United States with whom the~~
24 ~~district is cooperating.~~

25 (3) Special meetings and adjourned meetings of the board may be called
26 by the chairman, vice-chairman or secretary, or any quorum of the board, and
27 may be held at any time. If the time and place of such special meeting shall
28 not have been determined at a meeting of the board with all members being
29 present, then notice of the time and place of such special, or adjourned
30 meeting, shall be given to each member of the board not less than three (3)
31 days before such special meeting is to be convened; unless such notice is
32 waived in writing, signed by all of the members of the board present and vot-
33 ing at such special or adjourned meeting, and the signed waiver made a part
34 of the minutes of such meeting.

35 (4) A quorum for the transaction of business of the board shall consist
36 of a majority of the members of the board. Unless otherwise provided by law,
37 all questions shall be determined by a majority of the vote cast. The chair-
38 man may vote in all cases, and, in the event he elects not to vote and in the
39 case of a tie, then he must cast the deciding vote.

40 (5) All meetings, regular, special and adjourned, of the board, are de-
41 clared to be public meetings open to the public. ~~Nothing herein contained~~
42 ~~shall be construed to prevent any board from holding executive sessions from~~

1 ~~which the public may be excluded; provided that no rules, regulations, or any~~
 2 ~~other official action, of any kind or character, shall be adopted at such ex-~~
 3 ~~ecutive sessions. All meetings of the board shall be held in compliance with~~
 4 ~~the open meetings law as provided in chapter 2, title 74, Idaho Code.~~

5 SECTION 2. That Section 42-3114, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 42-3114. COMPENSATION OF COMMISSIONERS. The commissioners of the dis-
 8 trict shall fix by resolution the compensation they shall each receive for
 9 their services, ~~not to exceed the sum of one hundred dollars (\$100) per day~~
 10 ~~for each day they shall actually be engaged in the business of their office,~~
 11 and shall fix by resolution the reimbursement they shall each receive for
 12 their travel and their necessary expenses for each day they shall be away
 13 from their place of residence and engaged in the business of their office,
 14 subject to the limits provided in section 67-2008, Idaho Code. The commis-
 15 sioners shall present an itemized account under oath on forms prescribed by
 16 the board.

17 SECTION 3. That Section 42-3115, Idaho Code, be, and the same is hereby
 18 amended to read as follows:

19 42-3115. COMMISSIONERS -- POWERS AND DUTIES. The board of commission-
 20 ers of flood control districts shall have the following powers and duties:

21 (1) To annually fix and determine the amount of money required to be
 22 raised by taxation to supply funds for costs of construction, costs of oper-
 23 ation and maintenance of the work and equipment of the district, and to levy
 24 and cause to be collected assessments on real property within the district
 25 in an amount not to exceed six hundredths of one percent (.06%) of the market
 26 value for assessment purposes on all taxable property within the district,
 27 provided however that a higher levy may be approved and ratified by the qual-
 28 ified voters at an election to be held, subject to the provisions of sec-
 29 tion 34-106, Idaho Code, for that purpose in the same manner as provided for
 30 the approval and ratification of contracts, in section 42-3117, Idaho Code,
 31 and said levy shall be certified by the board to the board of county commis-
 32 sioners of the county, or counties, in which said district is located, with
 33 directions that, at the time and in the manner required by law for levying
 34 taxes for county purposes, such board, or boards, of county commissioners
 35 shall levy such tax ~~upon~~ on the market value for assessment purposes of the
 36 real property within the boundaries of the district. Such certification of
 37 levies shall be prepared and forwarded by the board of the flood control dis-
 38 trict to the board, or boards, of county commissioners on or before September
 39 1 of each year. Such levies shall be levied and collected in the manner pro-
 40 vided by law, and the moneys collected shall be turned over to the treasurer
 41 or treasurers, of the county, or counties, in which said district is located.
 42 Said moneys shall be public funds and subject to the provisions of the public
 43 depository laws of the state.

44 (2) To employ such personnel as may be necessary to carry out the pur-
 45 poses and objects of this chapter, with the full power to bind said district
 46 for the compensation of such personnel.

1 (3) To sue and be sued in the name of the district; to have a seal, which
2 seal shall be judicially noticed; to have perpetual succession unless ter-
3 minated as hereinafter provided; to make and execute contracts and other in-
4 struments necessary or convenient to the exercise of its power; and to pro-
5 mulgate, amend and repeal rules not consistent with the provisions of this
6 chapter.

7 (4) To manage and conduct the business and affairs of the district, both
8 within and without the district.

9 (5) To enter into contracts for the purposes of this chapter, provided
10 however, that the board shall purchase goods and services in accordance with
11 the provisions of chapter 28, title 67, Idaho Code. However, where it is de-
12 termined by order of the board that there is an existing flooding emergency,
13 or that the district is in a flood fight, the requirement for sealed competi-
14 tive bids shall not apply.

15 (6) To prescribe the duties of officers, agents and employees as may be
16 required.

17 (7) To establish the fiscal year of the district and to keep records of
18 all business transactions of the district.

19 (8) To prepare a statement of the financial condition of the district
20 at the end of each fiscal year in a form to be prescribed by the director or
21 by the legislative services office, to publish in at least one (1) issue of
22 some newspaper published, or in general circulation in the county, or coun-
23 ties, in which such district is located and to file a certified copy of such
24 financial report with the director and the legislative services office on or
25 before February 2 of each year.

26 (9) To have an audit of the financial affairs of the district as re-
27 quired in section 67-450B, Idaho Code. A certified copy of said audit shall
28 be filed with the director on or before February 2 following the audit.

29 (10) To obtain options ~~upon~~ on and acquire by purchase, exchange, lease,
30 gift, grant, bequest, devise, or otherwise, any property, real or personal,
31 in accordance with chapter 28, title 67, Idaho Code, and improve any prop-
32 erties acquired; to receive income from such properties and to expend such
33 income in carrying out the purposes and provisions of this chapter; to lease
34 any of its property or interest therein in furtherance of the purposes and
35 provisions of this chapter, ~~provided that no contract or agreement for the~~
36 ~~acquisition, purchase or repair of personal property involving expenditure~~
37 ~~in excess of one thousand dollars (\$1,000), shall be entered into without~~
38 ~~first advertising for sealed competitive bids as herein provided.~~

39 (11) To have the power of eminent domain for the use of the district in
40 the construction, operation, maintenance and upkeep of its structures, wa-
41 terways, dikes, dams, basins, or any other use necessary in the carrying out
42 of the provisions of this chapter.

43 (12) To convey rights-of-way and easements for highways, public roads,
44 public utilities, and for other purposes over district property, as shall be
45 determined by the board to be in the best interests of the district.

46 (13) To convey, by deed, bill of sale, or other appropriate instrument,
47 all of the estate and interest of the district in any real or personal prop-
48 erty. Prior to such sale or conveyance, the board shall have the property
49 appraised by three (3) disinterested residents of the district, which ap-
50 praisal shall be entered in the minutes of the board. The property may be

1 sold at public auction or at a private sale by sealed competitive bids, as the
2 board shall determine, to the highest cash bidder, provided that in no case
3 shall any property of a district be sold for less than its appraised value.
4 All sales by sealed competitive bids shall be advertised as herein provided.

5 (14) To conduct, implement, participate in, and support the following
6 flood control activities and operations independently or in cooperation
7 with other agencies, entities, and individuals, whether within or outside
8 the boundaries of the district:

9 (a) Flood risk reduction;

10 (b) Flood response;

11 (c) Flood recovery;

12 (d) Construction, operation, maintenance, repair, or replacement of
13 flood control structures;

14 (e) Flood studies;

15 (f) Use and improvement of streams, channels, and other surface water-
16 courses for flood management;

17 (g) Declaring a flooding emergency and conducting flood response. Pro-
18 vided however, that the extent of any stream channel alteration during
19 a flooding emergency shall be limited to that amount of work deemed
20 necessary by the board to safeguard life or property, including growing
21 crops;

22 (h) Repair and stabilization of stream banks;

23 (i) Removal of debris. If the district determines that there is no
24 reasonable means of transporting and disposing of debris outside the
25 mean high water mark of the channel, the district may deposit the de-
26 bris along the stream banks outside the mean high water mark, and may
27 thereafter dispose of combustible materials removed from the stream by
28 burning in conformance with any applicable permitting requirements of
29 the state of Idaho or local governments, and after reasonable notice to
30 nearby landowners; and

31 (j) Conducting flood control operations to prevent flooding from the
32 release of water from a canal, ditch or drain upon the request of the
33 owner thereof.

34 (15) To enter into contracts or agreements with the United States or any
35 of its officers, agents, or subdivisions, or with the state or any of its of-
36 ficers, agents or political subdivisions, and to cooperate with such gov-
37 ernments, persons or agencies in effectuating, promoting and accomplishing
38 the purposes of this chapter, provided that the district has sufficient mon-
39 eys on hand, or in their budget for the year in which said contract is entered
40 into, to defray the expenditure of funds called for in such contract without
41 the creation of any indebtedness. Whenever any such contract shall, by its
42 terms, require the expenditure of funds by the district in excess of the mon-
43 eys on hand or the funds to be realized from its budget for the year in which
44 said contract is entered into, then such contract may not be entered into by
45 the district until ratified by two-thirds (2/3) of the qualified voters vot-
46 ing at an election to be held, subject to the provisions of section 34-106,
47 Idaho Code, for that purpose, according to the provisions of this chapter.

48 (16) To bear its allocated share of the cost of any project resulting
49 from any contract or agreement entered into as provided herein.

1 (17) To take over, administer and maintain pursuant to any agreement or
2 contract entered into in accordance with the provisions of this chapter any
3 flood control project within or without the boundaries of the district un-
4 dertaken in cooperation with the United States or any of its agencies, or
5 with the state of Idaho or any of its agencies, or any combinations thereof.

6 (18) To accept donations, gifts and contributions in money, services,
7 or materials, or otherwise, from the United States or any of its agencies, or
8 the state of Idaho or any of its agencies, or any combinations thereof, and
9 to expend such moneys, services, or materials in carrying ~~on~~ out its opera-
10 tions.

11 (19) To exercise all other powers necessary, convenient or incidental
12 to carrying out the purposes and provisions of the chapter.

13 SECTION 4. An emergency existing therefor, which emergency is hereby
14 declared to exist, this act shall be in full force and effect on and after
15 July 1, 2025.