

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 194

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO WATER; AMENDING SECTION 42-5249, IDAHO CODE, TO PROVIDE FOR THE
2 ESTABLISHMENT OF DIVISIONS WITHIN WATER DISTRICTS; AMENDING SECTION
3 42-5224, IDAHO CODE, TO EXPAND THE POWERS AND DUTIES OF A GROUNDWATER
4 DISTRICT BOARD OF DIRECTORS TO INCLUDE THE ABILITY TO DIVIDE DISTRICTS
5 INTO DIVISIONS; AMENDING SECTION 42-5240, IDAHO CODE, TO REVISE A
6 PROVISION REGARDING LIENS OF ASSESSMENT AND TO MAKE A TECHNICAL COR-
7 RECTION; AMENDING SECTION 42-5242, IDAHO CODE, TO REVISE A PROVISION
8 REGARDING ENTRY OF DELINQUENT ASSESSMENTS AND TO MAKE A TECHNICAL COR-
9 RECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
10

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

12 SECTION 1. That Section 42-5249, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 42-5249. ORDER ACCEPTING OR REJECTING PETITION. (1) If the board of
15 directors deems a proposed annexation not to be in the best interests of the
16 district to include the lands mentioned in the petition, the board shall re-
17 ject the petition. But if they deem it for the best interest of the district,
18 the board may order the lands mentioned in the petition or some part thereof
19 be annexed to the district.

20 (2) The order shall describe the lands to be annexed to said district
21 and the board may cause a survey thereof to be made if deemed necessary.
22 Thereafter the annexed land shall be subject to such assessments from time to
23 time as the board of directors shall deem right under the circumstances, and
24 such assessments shall be deemed to be assessments for benefits to said lands
25 by reason of their annexation to said district. The directors shall state
26 on their minutes at their next regular meeting which division and election
27 precinct in said district the said lands so annexed shall be attached, and,
28 if necessary, the board shall make an order redividing the district into
29 divisions and election precincts, in the same manner and to like effect, as
30 near as may be, as provided for that purpose on the formation of a district.

31 (3) If the board determines that it is in the best interest of the dis-
32 trict, the board may create additional divisions and election precincts in
33 the district following the annexation of additional lands. Any new division
34 created within the district for the purpose of conducting elections follow-
35 ing the annexation of lands must be consistent with the parameters estab-
36 lished in section 42-5208, Idaho Code. If the board creates a new division
37 and reallocation, the board shall make an order redividing the district into
38 divisions, including the new division and election precinct.

39 SECTION 2. That Section 42-5224, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 42-5224. POWERS AND DUTIES OF BOARD OF DIRECTORS. The board shall, in
2 addition to any other powers and duties provided in this chapter, and pro-
3 vided that nothing in this chapter shall abrogate or impair the right of any
4 person to take any action necessary to acquire, protect, challenge or defend
5 any water right, have the following powers and duties:

6 (1) To acquire, and/or construct, operate, control or use by appro-
7 priation, grant, purchase, bequest, devise, contract or lease works or
8 facilities, water rights, water permits or licenses, well-drilling permits,
9 wells, pipelines, ditches and any other real and personal property (includ-
10 ing easements and rights-of-way) or contract entitlement within or without
11 the district necessary or convenient to fully exercise its powers;

12 (2) To sell, lease, encumber, alienate, or otherwise dispose of works
13 or facilities, water, water rights, wells, pipelines, ditches, reservoirs,
14 recharge facilities, and any other real and personal property owned by the
15 district within or without its boundaries, and to incur indebtedness on be-
16 half of the district as specified in this chapter;

17 (3) To enter into contracts and agreements, cooperative and otherwise,
18 including contracts with the United States of America and any of its agencies
19 or instrumentalities, and tribes, and contracts with corporations, public
20 or private, municipalities, or governmental subdivisions necessary or con-
21 venient to fully exercise its powers;

22 (4) To hire and retain agents, employees, engineers, hydrologists, ge-
23 ologists, and attorneys as shall be necessary and convenient to transact the
24 district's business and to represent the district's interests;

25 (5) To levy assessments for the operation of the district and its pro-
26 grams;

27 (6) To represent district members, with respect to their individual wa-
28 ter rights, in general water rights adjudications and other legal and admin-
29 istrative proceedings or before political bodies, provided that the board
30 may levy assessments for these matters against only those members who have
31 given written consent for the representation;

32 (7) To represent district members in proceedings or meetings of a water
33 district established by the director of the department notwithstanding any
34 provision to the contrary in chapter 6, title 42, Idaho Code. Provided how-
35 ever, that the board shall not be authorized to cast a vote in any proceeding
36 or meeting of a water district established pursuant to chapter 6, title 42,
37 Idaho Code, on behalf of any district member who has, prior to such proceed-
38 ing or meeting, given written notice to the board and to the water district
39 that such district member intends to vote on his own behalf, or on behalf
40 of any district member who attends such meeting or proceeding and intends to
41 vote on his own behalf. The board shall provide a verified list of the water
42 rights that it represents at any water district proceeding or meeting to the
43 chairman of the water district proceeding or meeting;

44 (8) To appropriate, develop, store, and transport water within the
45 state;

46 (9) To acquire stock in canal companies, water companies, and water
47 users' associations;

48 (10) To invest any surplus money in the district treasury pursuant to
49 the public depository law as contained in chapter 1, title 57, Idaho Code;

1 (11) To develop, maintain, operate and implement mitigation plans de-
2 signed to mitigate any material injury caused by ground water use within the
3 district upon senior water uses within and/or without the district;

4 (12) To finance the repair or abandonment of wells in the ground water
5 district which have experienced or are experiencing declines in water level
6 or water pressures because of reasons including, but not limited to, flow,
7 leakage, and waste from improper construction, maintenance, and operation
8 of wells;

9 (13) To have and exercise the power of eminent domain in the manner pro-
10 vided by law for the condemnation of private property for easements, rights-
11 of-way, and other rights of access to property necessary to the exercise of
12 the mitigation powers herein granted, both within and without the district;

13 (14) To sue and be sued, and be a party to suits, actions and proceed-
14 ings;

15 (15) To enter into joint powers agreements and/or memoranda of under-
16 standing with other districts, governmental or quasi-public entities;

17 (16) To develop and acquire water rights for, and operate, aquifer stor-
18 age or recharge projects;

19 (17) To monitor, measure, study, and implement programs in the inter-
20 ests of the district's members regarding the protection of ground water di-
21 versions, depth of water in wells, aquifer water levels and characteristics;

22 (18) To adopt and amend bylaws not in conflict with the constitution and
23 laws of the state for carrying on the business, objects and affairs of the
24 board and of the district and to establish a fiscal year;

25 (19) To enter upon land to make surveys, locate district property,
26 works, or facilities, and to otherwise conduct the affairs of the district;

27 (20) To make, record and report annually to the director sufficient mea-
28 surements of diversions and water levels of district members to allow the
29 district to be excluded from any water measurements district created pur-
30 suant to sections 42-705 through 42-715, Idaho Code;

31 (21) To divide the district into divisions and precincts following the
32 annexation of lands under sections 42-5245 through 42-5250, Idaho Code, for
33 the purpose of conducting elections as long as any such division is consis-
34 tent with the parameters established in section 42-5208, Idaho Code; and

35 ~~(21)~~ (22) To manage and conduct the affairs of the district and to have
36 and exercise all rights and powers necessary or incidental to or implied from
37 the specific powers granted herein. Such specific powers shall not be con-
38 sidered as a limitation upon any power necessary or appropriate to carry out
39 the purposes and intent of this chapter.

40 SECTION 3. That Section 42-5240, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 42-5240. LIEN OF ASSESSMENT. From and after ~~January~~ February 1 of
43 any year, all assessments, other than those levied against municipalities,
44 shall be liens against the land of ground water users to which the water
45 rights used to determine assessments are appurtenant, and notwithstanding
46 anything to the contrary in this chapter or any provisions incorporated
47 therein by reference, shall be superior to the lien of any mortgage or deed of
48 trust, whether prior in time or not, provided that notice of the assessment
49 delinquency is sent to the mortgage or deed of trust holder at least sixty

1 (60) days prior to any foreclosure sale of the property. Said assessment
2 liens shall not be removed until the assessments are paid or the property
3 is sold for the payment thereof, and shall constitute such lien until paid.
4 Upon any sale of the property, the purchaser at such sale shall take the
5 property subject to any annual assessments of the district subsequent in
6 time to the assessment for which the foreclosure occurred. Nothing in this
7 section alters or affects any liens of water related districts or entities
8 authorized pursuant to Idaho law.

9 SECTION 4. That Section 42-5242, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 42-5242. ENTRY OF DELINQUENT ASSESSMENTS -- FILING OF DELINQUENCY
12 LIST. (1) On or before ~~the 15th day of January~~ February 15 of each year the
13 treasurer shall enter the amount of all delinquent assessments ~~upon~~ on the
14 assessment book, which entry shall be considered to be dated as of the first
15 day of ~~January~~ February. Such entry shall have the force and effect of a sale
16 to the treasurer of the district as grantee in trust for the district of all
17 property to which a lien has attached as a result of such unpaid assessments.

18 (2) The treasurer shall compile a list of such delinquency entries
19 which shall contain the names of the persons or entities to whom the assess-
20 ments were directed and the amount of such delinquent assessments together
21 with the amount of the penalties to be added thereto. A certified copy of the
22 delinquency list, duly acknowledged by the treasurer, shall be filed with
23 the county recorder of each county in which the properties affected by such
24 delinquent assessments are located, and the treasurer shall then provide by
25 certified mail a notice of delinquency to each ground water user having a
26 delinquent assessment.

27 (3) Upon the payment in full of any delinquent assessment and penalty
28 that was entered on a recorded delinquency list, the treasurer shall file
29 with the county recorder of each county in which the list of delinquent as-
30 sements was recorded an acknowledged notice that the delinquent assess-
31 ment and any penalty owed has been paid in full. The treasurer shall file any
32 notices of payment of delinquent assessments with the county recorders, as
33 required, on at least a monthly basis.

34 SECTION 5. An emergency existing therefor, which emergency is hereby
35 declared to exist, this act shall be in full force and effect on and after
36 July 1, 2025.