

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 401

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE,  
2 BY THE ADDITION OF A NEW SECTION 43-1122, IDAHO CODE, TO PROVIDE A PRO-  
3 CEDURE FOR THE TRANSFER OF LANDS BETWEEN DISTRICTS; AMENDING CHAPTER  
4 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1123, IDAHO  
5 CODE, TO PROVIDE FOR THE CONTENT OF RESOLUTIONS REGARDING THE TRANSFER  
6 OF LANDS BETWEEN DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE,  
7 BY THE ADDITION OF A NEW SECTION 43-1124, IDAHO CODE, TO PROVIDE FOR  
8 NOTICE; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A  
9 NEW SECTION 43-1125, IDAHO CODE, TO PROVIDE FOR THE CONTENT OF THE NO-  
10 TICE; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW  
11 SECTION 43-1126, IDAHO CODE, TO PROVIDE FOR HEARING; AMENDING CHAPTER  
12 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1127, IDAHO  
13 CODE, TO PROVIDE FOR ORDERS AND DETERMINATIONS; AMENDING CHAPTER 11,  
14 TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1128, IDAHO  
15 CODE, TO PROVIDE FOR THE ENTRY OF ORDERS, TO PROVIDE REQUIREMENTS FOR  
16 ORDERS OF EXCLUSION, TO PROVIDE FOR THE DELIVERY OF COPIES OF EXCLUSION  
17 ORDERS TO ANNEXING DISTRICTS, TO PROVIDE FOR ORDERS OF ANNEXATION AND TO  
18 PROVIDE FOR RECORDING OF ORDERS; AMENDING CHAPTER 11, TITLE 43, IDAHO  
19 CODE, BY THE ADDITION OF A NEW SECTION 43-1129, IDAHO CODE, TO PROVIDE  
20 FOR THE EFFECT OF ORDERS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE,  
21 BY THE ADDITION OF A NEW SECTION 43-1130, IDAHO CODE, TO PROVIDE FOR  
22 APPEALS AND TO PROVIDE A PROCEDURE; AND AMENDING CHAPTER 11, TITLE 43,  
23 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1131, IDAHO CODE, TO  
24 PROVIDE FOR COSTS.  
25

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

27 SECTION 1. That Chapter 11, Title 43, Idaho Code, be, and the same is  
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
29 ignated as Section 43-1122, Idaho Code, and to read as follows:

30 43-1122. TRANSFER OF LANDS BETWEEN DISTRICTS. The boards of directors  
31 of two (2) irrigation districts may by resolution declare and act upon their  
32 proposal to transfer lands from one (1) district to the other through ex-  
33 clusion and annexation in accordance with sections 43-1122 through 43-1129,  
34 Idaho Code. The district from which lands are proposed to be excluded shall  
35 be identified as the "excluding district." The district to which lands are  
36 proposed to be annexed shall be identified as the "annexing district."

37 SECTION 2. That Chapter 11, Title 43, Idaho Code, be, and the same is  
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
39 ignated as Section 43-1123, Idaho Code, and to read as follows:

1           43-1123. RESOLUTION -- CONTENTS. The districts proposing to transfer  
2 lands as authorized by section 43-1122, Idaho Code, shall adopt a resolu-  
3 tion, either separately or jointly, which shall:

4           (1) Identify the excluding district and the annexing district;

5           (2) Provide a legal description of each lot or parcel proposed to be  
6 transferred;

7           (3) Specify the name and address of each person in possession of each  
8 such lot or parcel and of each owner thereof as the ownership appears of  
9 record in the assessment rolls of the district and of each owner thereof as  
10 the ownership appears of record in the office of the county recorder of the  
11 county in which the land is situated and of each mortgagee and other lien-  
12 holder whose mortgage or lien appears of record in the office of the county  
13 recorder of the county in which the land is situated;

14           (4) Explain the reasons for the transfer including, but not limited to,  
15 that the transfer is in the best interests of the owner of the land proposed  
16 to be transferred and of the districts;

17           (5) Describe the benefits that will be apportioned and provided to the  
18 proposed transferred lands by the annexing district;

19           (6) Provide a statement of applicable levies by the annexing district  
20 in the year prior to the proposed transfer;

21           (7) Describe the proposed method of water delivery from the annexing  
22 district to the lands proposed to be transferred;

23           (8) Identify obligations of the excluding district that will continue  
24 to apply to the lands to be transferred;

25           (9) State whether the lands proposed to be transferred will be retained  
26 within the excluding district for drainage purposes;

27           (10) Fix the date, time and place for hearing on the proposed transfer,  
28 which time shall be not less than twenty-eight (28) days from the date of the  
29 adoption of the resolution(s); and

30           (11) Recite any other information the districts deem to be pertinent to  
31 the proposed transfer.

32           SECTION 3. That Chapter 11, Title 43, Idaho Code, be, and the same is  
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
34 ignated as Section 43-1124, Idaho Code, and to read as follows:

35           43-1124. NOTICE. The secretaries of the excluding and annexing dis-  
36 tricts shall publish and provide notice of the hearing on the proposed trans-  
37 fer in the manner described in section 43-1112, Idaho Code. The secretaries  
38 may publish and provide such notice separately or jointly.

39           SECTION 4. That Chapter 11, Title 43, Idaho Code, be, and the same is  
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
41 ignated as Section 43-1125, Idaho Code, and to read as follows:

42           43-1125. NOTICE -- CONTENTS. The notice required by section 43-1124,  
43 Idaho Code, shall contain:

44           (1) The information identified in section 43-1123, Idaho Code; and

45           (2) Notice to each person, firm, corporation and other legal entity in-  
46 terested in the proposed transfer to appear at the district office at the  
47 date and time fixed, and file objections in writing showing cause, if any

1 they may have, why the land or any part of it should not be transferred as pro-  
2 posed in the resolution(s) of the boards of directors.

3 SECTION 5. That Chapter 11, Title 43, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
5 ignated as Section 43-1126, Idaho Code, and to read as follows:

6 43-1126. HEARING. The boards of directors of the districts may hold  
7 separate hearings or a joint hearing on the proposed transfer. At such hear-  
8 ing(s), the boards of directors shall hear all of the objections presented to  
9 them in writing and all evidence introduced in support of the transfer and in  
10 support of the objections to the transfer.

11 SECTION 6. That Chapter 11, Title 43, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
13 ignated as Section 43-1127, Idaho Code, and to read as follows:

14 43-1127. ORDERS -- DETERMINATIONS. After the hearing(s) on the trans-  
15 fer proposal, the boards of directors of the districts shall order the trans-  
16 fer of all or any part of the land described in the resolution when as to the  
17 lands to be excluded they determine that:

18 (1) The transfer is in the best interests of the owner of the lands to be  
19 transferred and of the district;

20 (2) The annexing district will apportion and provide comparable bene-  
21 fits to the lands to be transferred;

22 (3) There will be no interruption in the delivery of water to the lands  
23 to be transferred as a result of the transfer; and

24 (4) The ditch rights of other landowners in the same lateral ditch water  
25 users' association in the excluding district will not be injured.

26 SECTION 7. That Chapter 11, Title 43, Idaho Code, be, and the same is  
27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
28 ignated as Section 43-1128, Idaho Code, and to read as follows:

29 43-1128. ENTRY AND RECORDING OF ORDERS. If the boards of directors de-  
30 termine from the hearing that all or part of the lands described in the res-  
31 olution should be transferred from one (1) district to another, the boards  
32 shall enter orders as follows:

33 (1) The board of the excluding district shall make and enter an order of  
34 exclusion that:

35 (a) Describes each lot or parcel being transferred;

36 (b) Changes the boundaries of the district to exclude such lands;

37 (c) States that the excluded lands shall not be entitled to receive  
38 water from the water rights or irrigation system of the excluding dis-  
39 trict;

40 (d) States that the excluded lands shall remain part of the excluding  
41 district for drainage purposes if the excluded lands will continue to  
42 receive drainage benefits from the excluding district;

43 (e) Identifies the obligations of the excluding district that will con-  
44 tinue to apply to the lands to be transferred;

1 (f) Recites any other information the districts deem to be pertinent to  
2 the proposed transfer; and

3 (g) Provides that the order shall not become effective until the annex-  
4 ing district enters an order annexing the lands described in the exclu-  
5 sion order.

6 (2) The secretary of the excluding district shall deliver a copy of the  
7 exclusion order to the annexing district.

8 (3) As soon as practicable after receiving the exclusion order, the an-  
9 nexing district shall make and enter an order that the lands described in the  
10 exclusion order be annexed to the annexing district.

11 (4) After the annexing district has entered its order of annexation,  
12 copies of the orders of exclusion and annexation, certified by the presi-  
13 dents and secretaries of the districts, shall be recorded in the office(s) of  
14 the county recorder(s) of each county wherein any portion of the transferred  
15 lands are situated.

16 SECTION 8. That Chapter 11, Title 43, Idaho Code, be, and the same is  
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
18 ignated as Section 43-1129, Idaho Code, and to read as follows:

19 43-1129. EFFECT OF ORDERS. The order excluding the transferred lands  
20 from the excluding district shall have the same effect described in sections  
21 43-1109 and 43-1119, Idaho Code. The order annexing the transferred lands  
22 to the annexing district shall have the same effect described in section  
23 43-1009, Idaho Code.

24 SECTION 9. That Chapter 11, Title 43, Idaho Code, be, and the same is  
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
26 ignated as Section 43-1130, Idaho Code, and to read as follows:

27 43-1130. APPEALS -- PROCEDURE. An appeal shall lie from the orders of  
28 the boards of directors transferring lands covered by the procedures pur-  
29 suant to sections 43-1122 through 43-1128, Idaho Code, and from any part of  
30 such orders. The appeal may be taken by any landowner in the excluding dis-  
31 trict or in the annexing district and by any person, firm, corporation or  
32 other entity having any interest in any tract of land included in such or-  
33 ders. The appeal shall be to the district court of the county where the lands  
34 involved in the appeal are located. The appeal shall be taken and shall be  
35 subject to the appeal provisions of section 43-719(4) and (5), Idaho Code.

36 SECTION 10. That Chapter 11, Title 43, Idaho Code, be, and the same is  
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
38 ignated as Section 43-1131, Idaho Code, and to read as follows:

39 43-1131. COSTS. All costs incurred by the districts in the transfer  
40 process provided by sections 43-1122 through 43-1128, Idaho Code, shall be  
41 divided equally between the districts, unless the districts agree upon a  
42 different apportionment of costs.