

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 47

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO WATERMASTERS; AMENDING SECTION 42-605, IDAHO CODE, TO AUTHORIZE  
2 THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO APPOINT A SUCCESSOR  
3 WATERMASTER UNDER CERTAIN CONDITIONS AND TO PROVIDE A PROCEDURE.  
4

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

6 SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION  
9 -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on  
10 the first Monday in March in each year, and, except as provided in subsection  
11 (2) of this section, commencing at two o'clock P.M., a meeting of all persons  
12 owning or having the use of a water right, in the waters of the stream or water  
13 supply comprising such district, which right has been adjudicated or decreed  
14 by the court or is represented by valid permit or license issued by the de-  
15 partment of water resources.

16 (2) Such meeting shall be held at some place within the water district,  
17 or at some nearby location convenient to a majority of those entitled to vote  
18 thereat, which place shall be designated by the director of the department  
19 of water resources. The director shall, at least twenty-one (21) days prior  
20 to the meeting date, send notification by regular mail to all persons, com-  
21 panies or corporations known by the director to hold rights to the use of the  
22 waters of such district, which right has been adjudicated or decreed by the  
23 court or is represented by valid permit or license issued by the department  
24 of water resources, of the time, date, location and purpose of the annual  
25 meeting. At any annual meeting the water users may vote to waive the require-  
26 ment for notice by mail and provide for notice to be given for future meet-  
27 ings by publication of the time, date, location and purpose of the meeting in  
28 a newspaper or newspapers in general circulation in the district. Published  
29 notice shall be made once per week for two (2) consecutive weeks with the sec-  
30 ond notice appearing at least fourteen (14) and not more than thirty (30)  
31 days prior to the meeting. In water districts whose area includes land in  
32 more than four (4) counties the annual meeting shall commence at ten o'clock  
33 A.M. instead of two o'clock P.M.: provided, that the water users of any wa-  
34 ter district may, by resolution adopted at an annual meeting or at a special  
35 meeting properly called for that purpose, change the time of day when the  
36 meeting shall commence or change the date for annual meetings in subsequent  
37 years to any day except Saturday and Sunday between the second Monday of Jan-  
38 uary and the third Monday in March or change both the time and the date, in  
39 which case the director of the department of water resources shall send no-  
40 tification at least twenty-one (21) days prior to said meeting date. At an  
41 annual meeting the water users may adopt resolutions to assure or improve the

1 distribution of the waters of the district within state law, and may provide  
2 that such resolutions shall continue from year to year.

3 (3) At the meeting of the water users of a district there shall be  
4 elected a watermaster for such water district, who may be authorized to  
5 employ such other regular assistants as the water users shall deem neces-  
6 sary, and who, upon appointment by the director of the department of water  
7 resources, shall be responsible for distribution of water within said water  
8 district, and the water users shall, prior to the election of such water-  
9 master and approval of the employment of assistants, fix the compensation  
10 to be paid them during the time actually engaged in the performance of their  
11 duties.

12 (4) Voting shall be by majority vote of the water users present at the  
13 meeting unless one (1) or more water users requests voting using the pro-  
14 cedure which follows in this subsection. In such case the meeting chair-  
15 man shall appoint a credentials committee to determine the number of votes  
16 each water user present is authorized to cast. If requested, each person  
17 present, owning or having the use for the ensuing season of any water right  
18 in the stream or water supply comprising such water district, which right has  
19 been adjudicated or decreed by the court or is represented by valid permit  
20 or license issued by the department of water resources, shall be entitled to  
21 a number of votes equal to the average annual dollar amount and any fraction  
22 thereof assessed for that person's qualifying water right for the previous  
23 five (5) years, or such lesser number of years as the right has been assessed.  
24 If a right has not previously been assessed, a person present, owning or hav-  
25 ing the use of the right for the ensuing season shall be entitled to a number  
26 of votes equal to the dollar amount and any fraction thereof which the right  
27 would have been assessed had it existed and been reasonably used when water  
28 was available under the priority of the right during the previous season.

29 (5) At such meeting the water users shall choose a meeting chairman and  
30 meeting secretary and shall determine the manner and method of electing the  
31 watermaster. The water users shall, at the annual meeting, provide for the  
32 water district treasurer functions in accordance with section 42-619, Idaho  
33 Code. Within five (5) days after such meeting the meeting chairman and meet-  
34 ing secretary shall forward a certified copy of the minutes of such meeting  
35 to the department of water resources. The meeting chairman, or the meeting  
36 secretary, if the meeting chairman is not present, from the immediately pre-  
37 ceding annual meeting shall call the meeting to order and preside over the  
38 election of officers for the meeting.

39 (6) At such meeting the water users may choose an advisory committee to  
40 be composed of members selected as may be determined at the meeting, which  
41 committee shall serve as advisors to the director and the watermaster in mat-  
42 ters pertaining to the distribution of water within the district. The advi-  
43 sory committee may be authorized to carry out policies as set forth in reso-  
44 lutions duly adopted by the water users at the annual meeting or at a special  
45 meeting. The advisory committee may also serve as the local committee to fa-  
46 cilitate the rental of stored water if appointed by the water resource board  
47 for such purpose under the provisions of section 42-1765, Idaho Code.

48 (7) A corporation or a water delivery organization, including, but not  
49 limited to a corporation, a water company, an irrigation district, an irri-  
50 gation company or a canal company, shall be considered a person for the pur-

1 pose of this section and shall cast its vote by someone to be designated by  
2 the corporation.

3 (8) Should said meeting not be held, or should said watermaster not be  
4 elected or the watermaster's compensation not be fixed as above provided,  
5 then the director of the department of water resources is authorized to ap-  
6 point a watermaster and fix the watermaster's compensation.

7 (9) The director of the department of water resources may remove any  
8 watermaster whenever such watermaster fails to perform the watermaster's  
9 duty, upon complaint in that respect being made to the director in writing,  
10 by one (1) person owning or having the right to the use of a water right in  
11 such district, which right has been adjudicated or decreed by the court or is  
12 represented by valid permit or license issued by the department of water re-  
13 sources provided, that upon investigation the director, after a hearing with  
14 the other water users of said district, which shall be held in the district  
15 or at some location convenient to the water users of the district, finds such  
16 charge to be true, and the director may appoint a successor for the unexpired  
17 term.

18 (10) Before entering upon the duties of the watermaster's office, said  
19 watermaster shall take and subscribe to an oath before some officer autho-  
20 rized by the laws of the state to administer oaths, to faithfully perform  
21 the duties of the watermaster's office, as provided in section 42-607, Idaho  
22 Code, and shall file that oath with the department of water resources. Upon  
23 appointment by the director of the department of water resources, the ac-  
24 tions taken by a watermaster in fulfillment of the duties of his office are  
25 covered by the state group surety bond as provided by sections 59-801 through  
26 59-804, Idaho Code. A duly appointed watermaster that is reelected in con-  
27 secutive years shall not be required to take and file additional oaths with  
28 the department of water resources for each consecutive year the watermaster  
29 is reelected. If a duly elected or appointed watermaster resigns, dies or is  
30 physically unable to perform his duties during the remainder of the elected  
31 or appointed watermaster term of service, then the director of the depart-  
32 ment of water resources is authorized to appoint a successor for the unex-  
33 pired term as provided in paragraphs (a) and (b) of this subsection.

34 (a) If a water district advisory committee has been chosen as provided  
35 in subsection (6) of this section, the water district advisory commit-  
36 tee shall meet to either nominate a successor watermaster or request a  
37 special meeting as provided in subsection (11) of this section to elect  
38 a new watermaster. Upon receipt of a nomination from a majority of the  
39 members of the water district advisory committee, the director of the  
40 department of water resources is authorized to appoint the nominated  
41 successor watermaster for the unexpired term.

42 (b) If a water district advisory committee has not been chosen, the  
43 director of the department of water resources is authorized to appoint  
44 a temporary successor watermaster. The temporary appointment extends  
45 through the unexpired term unless a special meeting is requested as  
46 provided in subsection (11) of this section and water users elect a new  
47 watermaster.

48 (11) The director shall call a special meeting of the water users of a  
49 district upon receipt of a written request for such meeting from a majority  
50 of the members of the advisory committee for a district, a written request

1 from water users representing thirty percent (30%) or more of the votes cast  
2 at the last regular annual meeting, a written request from the watermaster or  
3 on the director's own motion if the director determines a meeting is neces-  
4 sary to address matters that cannot be delayed until the next regular annual  
5 meeting. Notice of the time, place and purpose of the special meeting shall  
6 be given by the director in the manner provided in subsection (2) of this sec-  
7 tion, provided however, that a special meeting notice shall be sent at least  
8 fourteen (14) days prior to the meeting date.

9 (12) The water users may, by resolution, authorize the watermaster to  
10 acquire, hold and dispose of such real and personal property, equipment and  
11 facilities in the name of the water district as necessary for the proper dis-  
12 tribution of water and shall provide that all such real and personal property  
13 shall remain in the custody of the watermaster and the watermaster's succes-  
14 sor.