

IN THE SENATE

SENATE BILL NO. 1156

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO IRRIGATION DISTRICTS; PROVIDING LEGISLATIVE INTENT; AMEND-
3 ING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
4 43-1314, IDAHO CODE, TO PROVIDE FOR THE PARTITION OF CERTAIN IRRIGATION
5 DISTRICTS AND TO PROVIDE FOR PETITIONS TO PARTITION; AMENDING CHAPTER
6 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1315, IDAHO
7 CODE, TO PROVIDE FOR THE FILING OF PETITIONS AND TO PROVIDE THAT THE PE-
8 TITIONS ALONG WITH MAPS AND OTHER PAPERS FILED THEREWITH SHALL BE OPEN
9 TO PUBLIC INSPECTION; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE
10 ADDITION OF A NEW SECTION 43-1316, IDAHO CODE, TO PROVIDE THAT CERTAIN
11 MAPS SHALL ACCOMPANY PETITIONS; AMENDING CHAPTER 13, TITLE 43, IDAHO
12 CODE, BY THE ADDITION OF A NEW SECTION 43-1317, IDAHO CODE, TO PROVIDE
13 FOR BOND; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A
14 NEW SECTION 43-1318, IDAHO CODE, TO PROVIDE FOR NOTICE RELATING TO THE
15 FILING OF PETITIONS FOR PARTITION AND TO PROVIDE REQUIREMENTS RELATING
16 TO SUCH NOTICES; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE AD-
17 DITION OF A NEW SECTION 43-1319, IDAHO CODE, TO PROVIDE FOR NOTICES OF
18 HEARING AND TO PROVIDE REQUIREMENTS RELATING TO SUCH NOTICES; AMEND-
19 ING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
20 43-1320, IDAHO CODE, TO PROVIDE FOR EXAMINATION BY THE DEPARTMENT OF WA-
21 TER RESOURCES, TO PROVIDE FOR REPORTS AND TO REQUIRE THE BOARD OF COUNTY
22 COMMISSIONERS TO NOTIFY THE DEPARTMENT OF THE FINAL ACTION TAKEN ON THE
23 PETITION; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY THE ADDITION OF
24 A NEW SECTION 43-1321, IDAHO CODE, TO PROVIDE CONDITIONS UNDER WHICH
25 ORDERS SHALL BE ISSUED, TO PROVIDE THAT CERTAIN BOUNDARIES SHALL NOT BE
26 MODIFIED, TO PROVIDE FOR THE INCLUSION OF CERTAIN LAND WITHIN THE NEW
27 IRRIGATION DISTRICT AND TO PROVIDE THAT SUPPLEMENTAL PETITIONS MAY BE
28 ACCEPTED PRIOR TO THE DATE OF HEARING; AMENDING CHAPTER 13, TITLE 43,
29 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1322, IDAHO CODE, TO PRO-
30 VIDE FOR ORDERS DIVIDING NEWLY PARTITIONED IRRIGATION DISTRICTS INTO
31 DIVISIONS, TO PROVIDE CERTAIN REQUIREMENTS, TO PROVIDE FOR THE ELECTION
32 OF DIRECTORS, TO PROVIDE THAT CERTAIN INFORMATION RELATING TO DIVISIONS
33 BE INCLUDED IN THE PETITION, TO PROVIDE FOR AN ALTERNATIVE NUMBER OF
34 DISTRICTS AND TO PROVIDE THAT THE REMAINING IRRIGATION DISTRICT SHALL
35 BE DIVIDED INTO DIVISIONS; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE,
36 BY THE ADDITION OF A NEW SECTION 43-1323, IDAHO CODE, TO PROVIDE FOR THE
37 EFFECTIVE DATE OF THE PARTITION, TO REQUIRE THE NEWLY PARTITIONED IR-
38 RIGATION DISTRICT TO TAKE CERTAIN ACTION AND TO PROVIDE FOR APPEAL FROM
39 OR JUDICIAL CHALLENGE TO ORDERS; AMENDING CHAPTER 13, TITLE 43, IDAHO
40 CODE, BY THE ADDITION OF A NEW SECTION 43-1324, IDAHO CODE, TO PROVIDE
41 FOR THE JOINT OWNERSHIP OF CERTAIN REAL OR PERSONAL PROPERTIES, TO PRO-
42 VIDE FOR PROPORTIONATE HOLDINGS OF CANALS AND LATERALS, TO PROVIDE FOR
43 THE PROPORTIONATE OBLIGATION OF OUTSTANDING DEBT AND TO PROVIDE FOR THE
44 DIVISION OF ASSESSMENTS; AMENDING CHAPTER 13, TITLE 43, IDAHO CODE, BY

1 THE ADDITION OF A NEW SECTION 43-1325, IDAHO CODE, TO PROVIDE FOR A JOINT
2 BOARD OF CONTROL; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

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

4 SECTION 1. LEGISLATIVE INTENT. The purpose of this act is to authorize
5 the owners of land within an irrigation district that delivers only natural
6 flow water rights, whose land is served by the irrigation district and who
7 own the water rights appurtenant to that land, to partition the irrigation
8 district into separate irrigation districts in order to preserve and protect
9 the agricultural uses of the district lands, to provide for continuation of
10 the irrigation of those lands and to set forth guidelines for ownership and
11 operation of irrigation works between the newly partitioned irrigation dis-
12 tricts.

13 SECTION 2. That Chapter 13, Title 43, Idaho Code, be, and the same is
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
15 ignated as Section 43-1314, Idaho Code, and to read as follows:

16 43-1314. PETITION. The owners of a majority of the land in an irriga-
17 tion district that is operated and maintained exclusively to deliver natu-
18 ral flow water rights, who also hold title to the water rights appurtenant
19 to that land, and whose water rights are delivered by an organized irriga-
20 tion district, may petition to partition the irrigation district into two
21 (2) separate irrigation districts, which shall be known for purposes of this
22 act as the new irrigation district and the remaining irrigation district.
23 For each parcel of land that is proposed to be included in the new irrigation
24 district, the petition shall set forth the following:

- 25 (1) Irrigation district assessment number;
- 26 (2) Tax lot or legal description to identify the property;
- 27 (3) Owner of the property;
- 28 (4) Individual water rights that are appurtenant to each property;
- 29 (5) A general characterization of the property as agricultural, resi-
30 dential or commercial; and
- 31 (6) The number of divisions into which the district shall be divided.

32 The petition must be signed by each landowner who desires to be included in
33 the new irrigation district and their signature shall constitute consent
34 to the partition and consent to have their water rights delivered and dis-
35 tributed by the new irrigation district.

36 SECTION 3. That Chapter 13, 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 43-1315, Idaho Code, and to read as follows:

39 43-1315. SUBMISSION OF PETITION TO COUNTY. The petition shall be filed
40 with the clerk of the board of county commissioners of the county in which
41 the greatest proportion of the proposed new irrigation district is situated.
42 The petition, together with all maps and other papers filed therewith, shall
43 at all proper hours be open to public inspection in the office of the clerk of
44 the board between the date of the filing and the date of the hearing thereon.

1 SECTION 4. That Chapter 13, Title 43, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 43-1316, Idaho Code, and to read as follows:

4 43-1316. MAPS AND WATER SUPPLY DATA. The petitioners must accompany
5 the petition with a map of the proposed district. The map shall show the lo-
6 cation of the canals situated within the boundaries of the proposed parti-
7 tioned district.

8 SECTION 5. That Chapter 13, Title 43, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 43-1317, Idaho Code, and to read as follows:

11 43-1317. BOND. The petitioners shall accompany the petition with a
12 bond to be approved by the board of county commissioners in double the amount
13 of the probable cost of the county organizing a new irrigation district,
14 conditioning that the bondsman will pay all costs, in the event the new irri-
15 gation district is not organized.

16 SECTION 6. That Chapter 13, 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 43-1318, Idaho Code, and to read as follows:

19 43-1318. NOTICE OF PRESENTATION TO COMMISSIONERS. Upon filing of a pe-
20 tition with the clerk of the board of county commissioners, the clerk shall
21 publish a notice that a petition for the partition of an irrigation district
22 has been filed, setting forth the first signature on the petition. The no-
23 tice shall provide the time at which the petition will be presented to the
24 board, which shall be during a regular meeting of the board or during a spe-
25 cial meeting called for that purpose. The notice shall be published at least
26 two (2) weeks prior to the day upon which the petition is to be presented
27 in a newspaper of general circulation in the county. If any portion of the
28 proposed partitioned district be within another county or counties, the no-
29 tice shall also be published in a newspaper of general circulation in each of
30 those counties.

31 SECTION 7. That Chapter 13, Title 43, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 43-1319, Idaho Code, and to read as follows:

34 43-1319. NOTICE OF HEARING. When a petition is presented to the board,
35 the board shall set a time for hearing, which time shall not be less than
36 four (4) nor more than eight (8) weeks from the date of the presentation. No-
37 tice of the time of hearing shall be published by the board at least three (3)
38 weeks prior to the time of hearing in a newspaper of general circulation pub-
39 lished within each of the counties in which any part of the proposed parti-
40 tioned district is situated.

41 SECTION 8. That Chapter 13, Title 43, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 43-1320, Idaho Code, and to read as follows:

1 43-1320. EXAMINATION BY DEPARTMENT OF WATER RESOURCES. A copy of the
2 petition and all maps and other papers filed with the board of county commis-
3 sioners shall be filed in the office of the department of water resources by
4 the board at least four (4) weeks prior to the date set for the hearing. The
5 department may examine the petition, maps and other papers and if it deems it
6 necessary, the department may prepare a report upon the matter in such form
7 as it deems advisable. Any report prepared by the department shall be sub-
8 mitted to the board a minimum of seven (7) calendar days before the hearing
9 on the petition and shall be available for public inspection. It shall be the
10 duty of the board to notify the department of water resources of the final ac-
11 tion, either favorable or unfavorable, taken on a petition for the partition
12 of an irrigation district.

13 SECTION 9. That Chapter 13, Title 43, Idaho Code, be, and the same is
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
15 ignated as Section 43-1321, Idaho Code, and to read as follows:

16 43-1321. ORDER OF THE BOARD. If it appears to the board of county com-
17 missioners that the holders of evidence of title to a majority of the acreage
18 with water rights delivered by the irrigation district within the boundaries
19 of an existing irrigation district have properly signed a petition and ap-
20 proved the partition of the irrigation district, that the holders of evi-
21 dence of title to such land signing the petition are also holders of title
22 to the water rights appurtenant to the land and it appears that the major-
23 ity of the acreage with water rights delivered by the irrigation district
24 described in the petition is of an agricultural character, the board shall
25 issue an order partitioning the irrigation district as set forth in the pe-
26 tition. The board shall not modify the boundaries set forth in the original
27 petition. Provided however, the board may permit any holder of evidence of
28 title to land lying within the boundaries of the original district of forty
29 (40) acres or more in size used primarily for agricultural purposes to in-
30 clude such land in the new irrigation district, if such landowner has filed
31 a separate petition with the board establishing that such land meets all the
32 criteria required to have been joined in the original petition, including
33 ownership of water rights appurtenant to the land. Supplemental petitions
34 may be accepted at any time prior to the date of hearing.

35 SECTION 10. That Chapter 13, Title 43, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 43-1322, Idaho Code, and to read as follows:

38 43-1322. DIVISIONS OF DISTRICT FOR ELECTION OF DIRECTORS. The board of
39 county commissioners shall also enter an order dividing the new partitioned
40 irrigation district into not less than three (3) nor more than seven (7) di-
41 visions of as nearly equal size as practical, which shall be numbered first,
42 second, third, etc. One (1) director, who shall be an elector and resident in
43 the division, shall be elected from each division of the district. Provided
44 however, that in districts of three thousand (3,000) acres or less, the di-
45 rectors may be elected from qualified electors holding title or evidence of
46 title to land in the district and residing in the county where some portion
47 of the district is located. The number of divisions into which the district

1 shall be divided shall be specified in the petition for the partition of the
2 new irrigation district, and if not otherwise specified, shall be three (3).
3 The board shall also enter an order dividing the remaining irrigation dis-
4 trict after partition into the same number of divisions of as nearly equal
5 size as practical as existed in the original irrigation district prior to
6 partition.

7 SECTION 11. That Chapter 13, Title 43, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 43-1323, Idaho Code, and to read as follows:

10 43-1323. EFFECTIVE DATE OF PARTITION -- CHALLENGES TO PARTITION. The
11 effective date of the partition of the existing district into two (2) dis-
12 tricts shall be as of the date of the order of the board of county commission-
13 ers. Following the effective date of the partition order by the board, the
14 newly partitioned irrigation district shall immediately undertake to reor-
15 ganize, elect officers as set forth in section 43-301, Idaho Code, and exer-
16 cise all powers and duties of an irrigation district. Any appeal from, or ju-
17 dicial challenge to, the order of the board partitioning the irrigation dis-
18 trict must be brought in the county where the board sits within ninety (90)
19 days from the effective date of the order or be forever barred.

20 SECTION 12. That Chapter 13, Title 43, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 43-1324, Idaho Code, and to read as follows:

23 43-1324. JOINT WORKS -- JOINTLY HELD PROPERTY. The irrigation works
24 and any other real or personal property held by the original irrigation
25 district prior to the partition shall belong to the partitioned irrigation
26 districts jointly as provided in this section. All canals and laterals that
27 deliver water to members of both districts shall be held by each district in
28 proportion to the total quantity of water delivered to members of each dis-
29 trict through each individual diversion work, canal and lateral. All other
30 real and personal property shall be held jointly by the two (2) districts
31 in proportion to the total quantity of water rights held by the members of
32 each district that are appurtenant to lands within the newly partitioned
33 district. Any outstanding debts of the district prior to partition shall
34 be joint obligations of the two (2) newly partitioned districts after the
35 partition in proportion to the total quantity of water rights held by members
36 of each district within the newly partitioned districts. All assessments
37 collected from landowners shall be provided to the new districts based upon
38 the location of the land after the partition, less the proportionate share of
39 expenses incurred prior to the effective date of the order of partition.

40 SECTION 13. That Chapter 13, Title 43, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
42 ignated as Section 43-1325, Idaho Code, and to read as follows:

43 43-1325. JOINT OPERATION. Whenever the partitioned irrigation dis-
44 tricts share irrigation works, canals and laterals after the partition takes
45 effect, a joint board of control, not exceeding seven (7) members, shall be

1 chosen by the board of directors of the respective partitioned irrigation
2 districts, the members of which shall be apportioned to each district as
3 nearly as practicable in accordance with the acreage for which water shall be
4 provided in each respective district. Said board of control shall control,
5 manage and operate such joint works subject to the board of directors of
6 the respective districts and each member of the board of control shall hold
7 office at the will of the board of directors of the district appointing such
8 member.

9 SECTION 14. SEVERABILITY. The provisions of this act are hereby de-
10 clared to be severable and if any provision of this act or the application
11 of such provision to any person or circumstance is declared invalid for any
12 reason, such declaration shall not affect the validity of the remaining por-
13 tions of this act.

14 SECTION 15. An emergency existing therefor, which emergency is hereby
15 declared to exist, this act shall be in full force and effect on and after its
16 passage and approval.