

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 412

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1
2 RELATING TO THE IDAHO DEPARTMENT OF WATER RESOURCES; AMENDING SECTION
3 42-1701, IDAHO CODE, TO REVISE QUALIFICATION REQUIREMENTS FOR THE DI-
4 RECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES AND TO MAKE TECHNICAL
5 CORRECTIONS.

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

7 SECTION 1. That Section 42-1701, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 42-1701. CREATION OF DEPARTMENT OF WATER RESOURCES -- DIRECTOR --
10 QUALIFICATIONS -- DUTIES. (1) There is hereby created the department of wa-
11 ter resources, which shall, for the purposes of section 20, article IV, of
12 the constitution of the state of Idaho, be an executive department of the
13 state government.

14 (2) The executive and administrative authority of the department, ex-
15 cept such authority as is specifically assigned by law to the water resource
16 board, shall be vested in a director of the department of water resources who
17 shall be: a licensed civil or ~~hydraulic~~ agricultural engineer, ~~and shall~~
18 ~~have had with~~ not less than five (5) years¹ of experience in the active prac-
19 tice of such profession; ~~a registered geologist with not less than five (5)~~
20 years of experience in the active practice of hydrology; ~~or a hydrologist~~
21 holding a bachelor's or advanced degree in hydrology from a college or uni-
22 versity accredited by a nationally recognized accrediting organization and
23 with not less than five (5) years of experience in surface water and ground
24 water modeling, water delivery and water measurement. The director of the
25 department of water resources shall also demonstrate experience and exper-
26 tise in interpreting and applying Idaho water law and shall be familiar with
27 irrigation and other water use practices in Idaho.

28 (3) The director may delegate such duties as are imposed upon him by law
29 to an employee of the department of water resources whenever in the opinion
30 of the director, such delegation is necessary for the efficient administra-
31 tion of his duties.

32 (4) The director shall organize the department into such divisions and
33 other administrative ~~sub-units~~ subunits as may be necessary in order to ef-
34 ficiently administer the department. All employees of the department, ex-
35 cept the director, shall be selected and appointed by the director in confor-
36 mance with the provisions of chapter 53, title 67, Idaho Code.

37 (5) The director and/or employees of the department of water resources
38 may make reasonable entry upon any lands in the state for the purpose of mak-
39 ing investigations and surveys, or for other purposes necessary to carry out
40 the duties imposed by law.

41 (6) (a) Any authorization or order of the Idaho public utilities com-
42 mission, under the provisions of section 61-328, Idaho Code, approving

1 the sale, assignment or transfer of hydropower water rights used in the
2 generation of electric power shall be issued only upon such conditions
3 as the director of the department of water resources shall require as
4 necessary to prevent any change in use of water under the water rights
5 held for hydropower purposes that would cause injury to any water rights
6 existing on the date of the sale, assignment or transfer. Any such con-
7 ditions shall ensure that the public interest, as it pertains to the use
8 of water under the hydropower water rights, will not be adversely af-
9 fected. Conditions, if any, imposed by the director shall be subject to
10 review under section 42-1701A(4), Idaho Code.

11 (b) Subsection (6)(a) of this section may be satisfied by a writ-
12 ten agreement between the holder of a water right held for hydropower
13 purposes and the governor, which agreement has been ratified by the
14 legislature of the state of Idaho. The agreement between the governor
15 and the Idaho Ppower Company dated October 15, 1984, and ratified by
16 the legislature of the state of Idaho pursuant to section 42-203B, Idaho
17 Code, and the subordination provisions relating to the Idaho Ppower
18 Company's water rights satisfy subsection (6)(a) of this section.