

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 526

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO USE OF PUBLIC WATERS OUTSIDE THE STATE; AMENDING SECTION 42-401,  
2 IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE USE OF PUBLIC WATERS  
3 OUTSIDE THE STATE.  
4

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

6 SECTION 1. That Section 42-401, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 42-401. APPLICATIONS FOR USE OF PUBLIC WATERS OUTSIDE THE STATE. (1)  
9 The state of Idaho is dedicated to the conservation of its public waters and  
10 the necessity to maintain adequate water supplies for the state's water re-  
11 quirements. The state of Idaho also recognizes that under appropriate con-  
12 ditions the out-of-state ~~transportation and~~ use of its public waters is not  
13 in conflict with the public welfare of its citizens or the conservation of  
14 its waters.

15 (2) Any person, firm or corporation or any other entity intending to  
16 withdraw water from any surface or underground water source in the state of  
17 Idaho ~~and transport it~~ for use outside the state or to change the place or  
18 purpose of use of a water right from a place in Idaho to a place outside the  
19 state shall file with the department of water resources an application for  
20 a permit to do so, subject to the requirements of chapter 2, title 42, Idaho  
21 Code.

22 (3) In order to approve an application under this chapter, the director  
23 must find that the applicant's use of water outside the state is consistent  
24 with the provisions of section 42-203A(5), Idaho Code. In addition, the di-  
25 rector shall consider the following factors:

26 (a) The supply of water available to the state of Idaho;

27 (b) The current and reasonably anticipated water demands of the state  
28 of Idaho;

29 (c) Whether there are current or reasonably anticipated water short-  
30 ages within the state of Idaho;

31 (d) Whether the water that is the subject of the application could  
32 feasibly be used to alleviate current or reasonably anticipated water  
33 shortages within the state of Idaho;

34 (e) The supply and sources of water available to the applicant in the  
35 state where the applicant intends to use the water; and

36 (f) The demands placed on the applicant's supply in the state where the  
37 applicant intends to use the water.

38 (5) By filing an application to use waters outside the state, the appli-  
39 cant shall submit to and comply with the laws of the state of Idaho governing  
40 the appropriation and use of water and any future changes to the water right.

1           (6) The director is empowered to condition the permit to insure that the  
2 use of water in another state is subject to the same regulations and restric-  
3 tions that may be imposed upon water use in the state of Idaho.

4           (7) Upon submittal of the application, the applicant shall designate  
5 an agent in the state of Idaho for reception of service of process and other  
6 legal notices.

7           (8) The director may, as a condition to the approval of an application  
8 under this chapter, require that the applicant shall file a certificate from  
9 the proper officer or official of the state where the water shall be used,  
10 showing to the satisfaction of the director that the intended use would be  
11 beneficial, and that the intended appropriation is feasible.