

IN THE SENATE

SENATE BILL NO. 1279

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-318, IDAHO CODE, TO  
REVISE PROCEDURAL PROVISIONS RELATING TO THE SALE OF PERSONAL OR REAL  
PROPERTY OF AN IRRIGATION DISTRICT.

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

SECTION 1. That Section 43-318, Idaho Code, be, and the same is hereby  
amended to read as follows:

43-318. SALE OF PERSONAL OR REAL PROPERTY -- PROCEDURE -- SALE OF FED-  
ERAL OR STATE LICENSE OR PERMIT. (1) Personal or real property of an irriga-  
tion district including a federal or state license or permit may be sold or  
transferred by its board of directors whenever the board finds and by reso-  
lution declares that the district no longer has use therefor. This procedure  
shall not be applicable to sales of real property acquired in compliance with  
the provisions of chapter 7, title 43, Idaho Code, because of the failure to  
pay irrigation district assessments.

1. If, in the opinion of the board, such property does not exceed ~~two~~  
fifty thousand dollars (\$250,000) in value, it may sell the same without  
independent appraisal, notice or competitive bids.

2. Personal or real property, but not including a federal or state li-  
cense or permit, exceeding ~~two~~ fifty thousand dollars (\$250,000) in es-  
timated value shall first be appraised by three (3) disinterested free-  
holders of the district, who shall be selected by the board. It may then  
be sold at public or private sale to the highest bidder for cash at not  
less than its appraised value, after due notice.

3. Notice of sale shall describe the property, the appraised value  
thereof (by separate items, if so appraised), and the time, place and  
condition of sale.

4. If the appraised value exceeds ~~two~~ fifty thousand dollars  
(\$250,000), notice of sale shall be posted in three (3) public places in  
each of the election precincts in the district (one of which shall be the  
office of the board) at least ten (10) days before the date of sale. The  
board, in its discretion, may order that, in addition to such posting of  
notice, the notice shall be published in a daily or weekly newspaper,  
published or having a general circulation in the district, for the num-  
ber of times, not to exceed three (3), and on the dates that the board  
shall specify in its order.

5. If, at the time set for closing the bids, no bidder offers the ap-  
praised price, or more, the board may sell the property for such price,  
and upon such terms, as the board by resolution declares to be reason-  
able, without further appraisal, notice or competitive bids.

(2) Whenever the board, by resolution, shall determine that the inter-  
est of the district in any federal or state license or permit is no longer

1 required, it may, without independent appraisal or competitive bid, sell or  
2 transfer such federal license or permit upon such terms as may be fixed by the  
3 board; provided, that such resolution sets forth the license or permit to be  
4 sold or transferred and terms and conditions for sale or transfer, and pro-  
5 vided further, that said resolution shall be published in a newspaper having  
6 general circulation in the district at least once a week for four (4) con-  
7 secutive weeks preceding the date of sale; provided, however, that if within  
8 fifteen (15) days after the first publication of the resolution a referen-  
9 dum petition signed by qualified electors of the district equal in number to  
10 not less than ten percent (10%) of the electors of the district, based upon  
11 the aggregate vote cast at the general election of the directors of the dis-  
12 trict next preceding the filing of such petition, and at which election votes  
13 were cast in the election of directors, shall be filed with the secretary of  
14 the district requesting that an election be held upon the sale or transfer of  
15 such license or permit. Any election required to be held pursuant to a refer-  
16 endum petition filed in accordance with the provisions of this section, may  
17 be held separately or may be held concurrently with any other election autho-  
18 rized by law, pursuant to notice as provided in section 43-206, Idaho Code.

19 Any such election required to be held hereunder shall be called by res-  
20 olution, which resolution shall also fix the date upon which such election  
21 shall be held, which shall be not more than forty-five (45) days following  
22 the receipt of petition requesting the election, the manner of holding the  
23 same and the method of voting for or against the sale or transfer. Such res-  
24 olution shall also fix the compensation to be paid the officers of the elec-  
25 tion and shall designate the precincts and polling places and shall appoint  
26 for each polling place, from each precinct from the electors thereof, the  
27 officers of such election who shall constitute a board of election for each  
28 polling place, which officers shall consist of three (3) judges, one (1) of  
29 whom shall act as clerk. The description of precincts may be made by ref-  
30 erence to any order or orders of the board of county commissioners of the  
31 county or counties in which the district or any part thereof is situated, or  
32 by reference to any previous order or resolution of the board or by detailed  
33 description of such precincts. Precincts established by the boards of the  
34 various counties may be consolidated for special elections held hereunder.  
35 In the event any such election shall be called to be held concurrently with  
36 any other election or shall be consolidated therewith, the resolution call-  
37 ing the election hereunder need not designate precincts or polling places  
38 or the names of officers of election, but shall contain reference to the act  
39 or order calling such other election and fixing the precincts and polling  
40 places and appointing election officers therefrom. The resolution calling  
41 the election shall prescribe an official notice of election, which notice  
42 shall be published once a week for two (2) consecutive weeks, the last publi-  
43 cation of which shall be at least ten (10) days prior to the date set for said  
44 election, in a newspaper of general circulation printed and published within  
45 the district, and no other or further notice of such election or publica-  
46 tion of the names of election officers or of the precincts or polling places  
47 need be given or made. At such election the ballots shall contain the words  
48 "Sale--Yes" or "Sale--No."

49 The respective election boards shall conduct the election in their re-  
50 spective precincts in the manner prescribed by law for the holding of dis-

1 trict elections to the extent the same shall apply and shall make their re-  
2 turns to the secretary of the district.

3 In the event that no referendum petition is filed, or if so filed, and  
4 if it shall appear from the election returns that a majority of the qualified  
5 electors of the district who shall have voted on the proposition submitted  
6 hereunder at such election voted in favor of such proposition, the directors  
7 of the district shall, by resolution, authorize the sale or transfer under  
8 the terms prescribed and effective as of the end of the notice period here-  
9 inafter provided, and shall cause notice thereof to be published one (1) time  
10 in a newspaper of general circulation within the district. For a period of  
11 thirty (30) days from the date of such publication, any person in interest  
12 may file suit in any court of competent jurisdiction to test the regularity,  
13 formality or legality of the proceedings authorizing the sale or transfer  
14 and the provisions of the contract of sale or transfer. After the expiration  
15 of such thirty (30) day period, no one shall have any right of action to con-  
16 test the validity of the sale or transfer, or of the contract, or of the pro-  
17 ceedings, or of any resolution of the board of directors regarding such sale  
18 or transfer, and said sale or transfer shall be conclusively presumed to be  
19 legal and no court shall thereafter have authority to inquire into such mat-  
20 ter.