

IN THE SENATE

SENATE BILL NO. 1281

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-116, IDAHO CODE, TO
2 REVISE TERMINOLOGY, TO REVISE PROVISIONS RELATING TO SPECIFIED DUTIES
3 OF THE BOARD OF DIRECTORS, TO REMOVE A PROVISION THAT CERTAIN OFFICERS
4 MUST BE RESIDENTS OF THE DISTRICT AND TO MAKE TECHNICAL CORRECTIONS;
5 AMENDING SECTION 43-206, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
6 SECTION 43-209, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION
7 43-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 43-602,
8 IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS;
9 AMENDING SECTION 43-730, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING
10 SECTION 43-1404, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECH-
11 NICAL CORRECTION; AND AMENDING SECTION 43-2203, IDAHO CODE, TO REVISE
12 TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS.
13

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

15 SECTION 1. That Section 43-116, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 43-116. ORGANIZATION MEETING OF BOARD. Said board shall cause a copy
18 of such order, duly certified, to be immediately filed for record in the of-
19 fice of the county recorder of each county in which any portion of such lands
20 are situated.

21 If it shall appear, however, that more than one-third (1/3) of said
22 votes are "Irrigation district--no," then a record of that fact shall be
23 duly entered upon the minutes of said board, and all proceedings in regard to
24 the organization of said district shall be void, and the expenses properly
25 incurred thereunder may be collected on the bond provided for in section
26 43-104, Idaho Code.

27 From and after the date of such filing of said order of the board of
28 county commissioners, the organization of such district shall be complete.
29 The ~~officers~~ directors of the district shall be entitled to enter immedi-
30 ately upon the duties of their respective offices, upon qualifying according
31 to law, and shall hold such offices respectively, until their successors are
32 elected and qualified. The board of directors so elected shall meet within
33 thirty (30) days after their election and elect a director to hold the office
34 of president, and shall appoint a secretary and treasurer, who shall perform
35 the duties imposed upon such officers under this title. ~~All officers of the~~
36 ~~district, except as above provided, must be residents thereof.~~

37 SECTION 2. That Section 43-206, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 43-206. NOTICE OF ELECTION -- APPOINTMENT OF JUDGES. The secretary of
40 the district shall give notice of all elections in said district subsequent

1 to the organization thereof, by posting the same in three (3) public places
2 in each such precinct and in the office of said board, at least four (4) weeks
3 before the day of such election, or by publication of the same once a week for
4 two (2) successive weeks in a newspaper having general circulation within
5 said district. If notice be given by publication in a weekly newspaper the
6 same shall be published in two (2) successive issues thereof, or, if in a
7 daily newspaper, at least six (6) days shall elapse between the first and
8 last dates of publication, and, in either case, publication shall be com-
9 pleted not less than fifteen (15) days before such election. Notices shall
10 state the time of said election and the polling place for each precinct; and
11 the ~~officer~~ director to be elected or other question to be voted upon, as the
12 case may be. At least ten (10) days before the holding of any such election,
13 the board of directors shall appoint three (3) electors of each precinct to
14 serve as judges of election for such precinct, and such judges shall consti-
15 tute a board of election for such precinct.

16 A polling place for a precinct need not be located in the precinct, but
17 shall be located within the district. Polling places for two (2) or more
18 precincts may be combined at one (1) location, so long as the physical ar-
19 rangements of the polling place are sufficient to guarantee all voters the
20 right to cast a secret ballot. Any combined polling place thus created shall
21 be no farther than ten (10) miles outside of the precinct which is losing
22 its polling place. In cases of combined polling places, the board of direc-
23 tors shall name one (1) elector from each of the combined precincts, and they
24 shall constitute the judges of election for that polling place.

25 SECTION 3. That Section 43-209, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 43-209. VACANCIES. In case of a vacancy in the office of director, the
28 remaining members of the board of directors shall fill such vacancy by ap-
29 pointing thereto a qualified elector residing within the division in which
30 the vacancy occurred. An ~~officer~~ director appointed to fill a vacancy as
31 above provided shall take and subscribe the official oath and execute a bond
32 as provided in the case of an elected director and shall hold his office un-
33 til the next regular election of said district, at which election a director
34 shall be elected for the remainder of the unexpired term.

35 SECTION 4. That Section 43-401, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 43-401. PLAN OF CONSTRUCTION -- ISSUANCE OF BONDS -- INDEBTEDNESS --
38 ELECTION. As soon as practicable after the organization of any such district
39 the board of directors shall, by a resolution entered on its records, formu-
40 late a general plan of its proposed operations, in which it shall state what
41 constructed works or other property it proposes to purchase and the cost of
42 purchasing the same; and further what construction work it proposes to do and
43 how it proposes to raise the funds for carrying out said plan. For the pur-
44 pose of ascertaining the cost of any such construction work, said board shall
45 cause such surveys, examinations and plans to be made as shall demonstrate
46 the practicability of such plan, and furnish the proper basis for an estimate
47 of the cost of carrying out the same. All such surveys, examinations, maps,

1 plans and estimates, shall be made under the direction of a competent irri-
2 gation engineer and certified by him. Said board shall then submit a copy of
3 the same to the department of water resources, and within ninety (90) days
4 thereafter the department shall file a report upon the same with said board,
5 which report shall contain such matters as, in the judgment of the department
6 may be desirable.

7 Upon receiving said report said board of directors shall proceed to de-
8 termine the amount of money necessary to be raised, and shall immediately
9 thereafter call a special election, at which shall be submitted to the elec-
10 tors of said district possessing the qualifications hereinafter prescribed
11 the question whether or not the bonds of said district, or the right to enter
12 into an obligation with the United States in the manner hereinafter in this
13 title provided, or whether a contractual arrangement with a money-lending
14 institution in the amount as determined, shall be authorized.

15 Notice of such election must be given by posting notices in three (3)
16 public places in each election precinct in said district at least four (4)
17 weeks before the date of said election, and by publication of the same once a
18 week for four (4) consecutive weeks in a newspaper having general circula-
19 tion within the district. Notice given by publication in a weekly newspaper
20 shall be published in four (4) consecutive issues thereof, or if in a daily
21 newspaper, at least six (6) days shall elapse between the first and last
22 dates of publication, and in either case, publication shall be completed not
23 less than fifteen (15) days before the election. Such notice must specify
24 the time of holding the election, the qualifications of voters, the amount of
25 bonds proposed to be issued, and, in case such maps and estimates have been
26 made, it shall further state that copies thereof, and in all cases it shall
27 state that said report of the department of water resources, are on file and
28 open to public inspection by the people of the district, at the office of said
29 board and at the office of the department of water resources.

30 No person who is not a resident holder of title or evidence of title to
31 lands located and subject to assessment within such district, or the wife
32 or husband of such holder of title or evidence of title, shall be entitled
33 to vote at such election. Otherwise said election must be held and the re-
34 sults thereof determined and declared in all respects as nearly as practi-
35 cable in conformity with the provisions of this title governing the elec-
36 tion of ~~officers~~ directors: provided, that no informalities in conducting
37 such an election shall invalidate the same if the election shall have been
38 otherwise fairly conducted. At such election the ballots shall contain the
39 words "bonds--yes" or "bonds--no," or other words equivalent thereto. If
40 two-thirds (2/3) of the votes cast are "bonds--yes" the board of directors
41 shall cause bonds in said amount to be issued; if more than one-third (1/3) of
42 the votes cast at any bond election are "bonds--no" the result of such elec-
43 tion shall be so declared and entered of record.

44 And whenever thereafter said board in its judgment deems it for the best
45 interest of the district that the question of the issuance of bonds in said
46 amount, or any other amount, shall be submitted to the electors, it shall
47 so declare of record in its minutes, and may thereupon submit such questions
48 to said electors in the same manner and with like effect as at such previous
49 election.

1 SECTION 5. That Section 43-602, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 43-602. ELECTION TO AUTHORIZE. Whenever the board of directors shall
4 deem it expedient to issue refunding bonds under the provisions of this chap-
5 ter, they shall, by resolution duly adopted and made a part of the district
6 records, call a special election of the qualified voters of the district, for
7 the purpose of voting upon the question of authorizing the board of directors
8 of the district to issue such refunding bonds, or the question may be submit-
9 ted at a general election for district ~~officers~~ directors.

10 At any election held under the provisions of this chapter the question
11 of authorizing the refunding of all or any part of the then outstanding
12 bonded indebtedness of the district, including accrued and unpaid interest,
13 may be submitted as one (1) question for determination whether such bonds are
14 of the same or of different issues.

15 The notice of said election shall be published and posted for the same
16 length of time and in the same manner, and the election shall be conducted
17 and the result thereof determined and declared in all respects, as nearly as
18 may be, in conformity with the provisions of the irrigation district laws of
19 Idaho governing elections authorizing original bond issues. Said election
20 notice shall specify the time and place for holding said election, the amount
21 and date of the bonds to be refunded, the amount of refunding bonds proposed
22 to be issued, the rate of interest they shall bear, and the time or times when
23 the debt evidenced by such refunding bonds shall be paid: provided, that the
24 said time or times shall not extend beyond a period of forty (40) years from
25 the date of said refunding bonds: provided further, that provision may be
26 made, if deemed expedient by the board of directors, for the payment of the
27 principal, with interest, in suitable ~~instalments~~ installments throughout
28 the term of the loan evidenced by said refunding bonds.

29 At such election the ballots shall contain the words "Refunding bonds-
30 -yes" and the words "Refunding bonds--no," and the voter shall answer the
31 question submitted by marking a cross (X) opposite the words expressing his
32 choice.

33 SECTION 6. That Section 43-730, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 43-730. CONTRACTS WITH CITIES, IRRIGATION LATERAL DISTRICTS OR OTHER
36 ENTITIES IN LIEU OF CHARGES, LEVIES AND ASSESSMENTS. The board of directors
37 of an irrigation district shall have the power to enter into a contract in
38 writing with any city, irrigation lateral district or other entity whose
39 boundaries or service area is situated within the boundaries of any irriga-
40 tion district where water has been purchased, or is being furnished, or shall
41 be furnished, for lands, property or use within the boundaries or service
42 area of such city, irrigation lateral district or other entity by an irri-
43 gation district, whereby such city, irrigation lateral district or other
44 entity shall become obligated to pay charges, levies and assessments now
45 provided to be made pursuant to chapter 7, title 43, sections 43-701 through
46 43-729, Idaho Code, and amendments thereto in lieu of the ~~officers~~ directors
47 of the irrigation district making said charges, levies and assessments.

1 SECTION 7. That Section 43-1404, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 43-1404. PROCEDURE UPON AFFIRMATIVE VOTE. If it appears that a major-
4 ity of all the votes cast in each of said districts is "Consolidation--yes,"
5 said board shall make an order, and enter the same of record in its minutes,
6 establishing said consolidated district, giving its boundaries and desig-
7 nation, and in detail the terms under which the consolidation has been ef-
8 fected, and dividing said consolidated district into three (3) divisions,
9 and shall appoint some person qualified under this title, to act as director
10 for each of said divisions of said district until the next general election
11 for the election of ~~officers~~ directors, when a board of directors shall be
12 elected as provided in section 43-201, Idaho Code: provided, however, that
13 the organization of such district shall not take effect until the first Tues-
14 day of the January following said order of its establishment. If the date
15 provided by law for the election of directors shall come between the date
16 of said order of the board of county commissioners and said first Tuesday of
17 January, then in making such order said board shall designate the board of
18 directors of one (1) of the consolidated districts as a board to take charge
19 of said election, and a director shall in that case be elected for each said
20 division of said consolidated district, and in that case no appointment of
21 directors shall be made by said board of county commissioners.

22 SECTION 8. That Section 43-2203, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 43-2203. ELECTION FOR ISSUING BONDS -- REFERENDUM PETITION. Whenever
25 the board shall by resolution adopted by a four-fifths (4/5) majority of the
26 said board, determine that the interest of said district and the public in-
27 terest or necessity demand the reconstruction, rehabilitation, replacement
28 and improvement of any dam and other related structures and works together
29 with all necessary appurtenances related thereto, in order to preserve, re-
30 store, protect and maintain rights of storage, diversion and delivery of wa-
31 ter necessary and appurtenant to the purposes for which such district and
32 other like similarly situated districts were organized and shall set forth
33 the amount of obligation or bonded or other indebtedness proposed to be is-
34 sued by the district under the provisions of this chapter, said board shall
35 be required to order the submission of the proposition of issuing such obli-
36 gation or bonded or other indebtedness for the purposes set forth in said
37 resolution to the vote of the qualified electors of the district as defined
38 in section 34-104, Idaho Code, at an election to be held for that purpose
39 only if within fifteen (15) days after the passage of such resolution a ref-
40 erendum petition signed by legal voters equal in number to not less than ten
41 ~~per cent~~ percent (10%) of the electors of the district, based upon the ag-
42 gregate vote cast at the general election of ~~officers~~ directors of the dis-
43 trict next preceding the filing of such referendum petition, shall be filed
44 with the secretary of the district requesting that an election upon the is-
45 suance of such obligation or bonded or other indebtedness be held and con-
46 ducted under the provisions of this section. Any election required to be
47 held pursuant to a referendum petition filed in accordance with this section
48 for the purpose of submitting any proposition or propositions of incurring

1 such obligation or indebtedness may be held separately, or may be consoli-
2 dated or held concurrently with any other election authorized by law. The
3 resolution, in addition to such declaration of public interest or necessity,
4 shall recite the objects and purposes for which the indebtedness is proposed
5 to be incurred, the estimated cost of the reconstruction, rehabilitation,
6 replacement or improvement as the case may be, the amount of principal of the
7 indebtedness to be incurred therefor, and the sources of the revenues and
8 assessments pledged to the payment of said bonds, as enumerated in section
9 43-2201~~7~~(D) (1), (2), (3) and (4), Idaho Code. The separate election upon the
10 assessments provided for in section 43-2201(D) (1), Idaho Code, shall be held
11 at the same time as and shall be combined with any such election required to
12 be held upon the issuance of the bonds pursuant to a referendum petition.

13 Any such election required to be held hereunder shall be called by res-
14 olution, which resolution shall also fix the date upon which such election
15 shall be held, the manner of holding the same and the method of voting for
16 or against the incurring of the indebtedness or issuance of the bonds. Such
17 resolution shall also fix the compensation to be paid the officers of the
18 election and shall designate the precincts and polling places and shall ap-
19 point for each polling place, from each precinct from the electors thereof,
20 the officers of such election, which officers shall consist of three (3)
21 judges, one (1) of whom shall act as clerk, who shall constitute a board of
22 election for each polling place. The description of precincts may be made by
23 reference to any order or orders of the board of county commissioners of the
24 county or counties in which the district or any part thereof is situated, or
25 by reference to any previous order, or resolution of the board or by detailed
26 description of such precincts. Precincts established by the boards of the
27 various counties may be consolidated for special elections held hereunder.
28 In the event any such election shall be called to be held concurrently with
29 any other election or shall be consolidated therewith, the resolution call-
30 ing the election hereunder need not designate precincts or polling places
31 or the names of officers of election, but shall contain reference to the act
32 or order calling such other election and fixing the precincts and polling
33 places and appointing election officers therefrom. The resolution calling
34 the election shall prescribe an official notice of election, which notice
35 shall be published once a week for two (2) consecutive weeks, the last publi-
36 cation of which shall be at least ten (10) days prior to the date set for said
37 election, in a newspaper of general circulation printed and published within
38 the district, and no other or further notice of such election or publication
39 of the names of election officers or of the precincts or polling places need
40 be given or made.

41 The respective election boards shall conduct the election in their re-
42 spective precincts in the manner prescribed by law for the holding of dis-
43 trict elections to the extent the same shall apply and shall make their re-
44 turns to the secretary of the district. At any regular or special meeting
45 of the board held not earlier than five (5) days following the date of such
46 election, the returns thereof shall be canvassed and the results thereof de-
47 clared.

48 In the event that no referendum petition is filed, or if so filed, if it
49 shall appear from said returns that a two-thirds (2/3) majority of the qual-
50 ified electors of the district who shall have voted on any proposition sub-

1 mitted hereunder at such election voted in favor of such proposition, the
2 district shall thereupon be authorized to incur such indebtedness or obli-
3 gations, enter into such contracts or issue and sell such bonds of the dis-
4 trict, all for the purpose or purposes and object or objects provided for
5 in the proposition submitted hereunder or in the resolution therefor, and
6 in the amount so provided. Submission of the proposition of incurring such
7 obligation or bonded or other indebtedness at such an election shall not pre-
8 vent or prohibit submission of the same or other propositions at subsequent
9 election or elections called for such purpose.