

IN THE SENATE

SENATE BILL NO. 1100

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO WATER; AMENDING SECTION 42-605, IDAHO CODE, TO PROVIDE THAT
2 UNDER SPECIFIED CONDITIONS A WATERMASTER MAY ACQUIRE, HOLD AND DIS-
3 POSE OF REAL AND PERSONAL PROPERTY, EQUIPMENT AND FACILITIES FOR THE
4 PROPER ADMINISTRATION OF THE WATER DISTRICT AND ENHANCEMENT OF WATER
5 SUPPLIES AND TO PROVIDE THAT UNDER SPECIFIED CONDITIONS A WATERMASTER
6 MAY DEVELOP, COORDINATE OR PROVIDE FOR CERTAIN WEATHER MODIFICATION
7 PROJECTS; AND AMENDING SECTION 42-612, IDAHO CODE, TO PROVIDE THAT IF
8 SPECIFIED FUNDS ARE NOT SUFFICIENT TO COVER EXPENSES IN IMPLEMENTING
9 CERTAIN RESOLUTIONS, SUCH EXPENSES SHALL COME FROM ASSESSMENTS AND TO
10 MAKE A TECHNICAL CORRECTION.
11

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

13 SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION
16 -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on
17 the first Monday in March in each year, and, except as provided in subsection
18 (2) of this section, commencing at two o'clock P.M., a meeting of all persons
19 owning or having the use of a water right, in the waters of the stream or water
20 supply comprising such district, which right has been adjudicated or decreed
21 by the court or is represented by valid permit or license issued by the de-
22 partment of water resources.

23 (2) Such meeting shall be held at some place within the water district,
24 or at some nearby location convenient to a majority of those entitled to vote
25 thereat, which place shall be designated by the director of the department
26 of water resources. The director shall, at least twenty-one (21) days prior
27 to the meeting date, send notification by regular mail to all persons, com-
28 panies or corporations known by the director to hold rights to the use of the
29 waters of such district, which right has been adjudicated or decreed by the
30 court or is represented by valid permit or license issued by the department
31 of water resources, of the time, date, location and purpose of the annual
32 meeting. At any annual meeting the water users may vote to waive the require-
33 ment for notice by mail and provide for notice to be given for future meet-
34 ings by publication of the time, date, location and purpose of the meeting in
35 a newspaper or newspapers in general circulation in the district. Published
36 notice shall be made once per week for two (2) consecutive weeks with the sec-
37 ond notice appearing at least fourteen (14) and not more than thirty (30)
38 days prior to the meeting. In water districts whose area includes land in
39 more than four (4) counties the annual meeting shall commence at ten o'clock
40 A.M. instead of two o'clock P.M.: provided, that the water users of any wa-
41 ter district may, by resolution adopted at an annual meeting or at a special
42 meeting properly called for that purpose, change the time of day when the

1 meeting shall commence or change the date for annual meetings in subsequent
2 years to any day except Saturday and Sunday between the second Monday of Jan-
3 uary and the third Monday in March or change both the time and the date, in
4 which case the director of the department of water resources shall send no-
5 tification at least twenty-one (21) days prior to said meeting date. At an
6 annual meeting the water users may adopt resolutions to assure or improve the
7 distribution of the waters of the district within state law, and may provide
8 that such resolutions shall continue from year to year.

9 (3) At the meeting of the water users of a district there shall be
10 elected a watermaster for such water district, who may be authorized to
11 employ such other regular assistants as the water users shall deem neces-
12 sary, and who, upon appointment by the director of the department of water
13 resources, shall be responsible for distribution of water within said water
14 district. Notwithstanding any personnel classification assigned to the wa-
15 termaster and assistants pursuant to the provisions of chapter 53, title 67,
16 Idaho Code, the water users shall, prior to the election of such watermaster
17 and approval of the employment of assistants, fix the compensation to be paid
18 them during the time actually engaged in the performance of their duties.

19 (4) Voting shall be by majority vote of the water users present at the
20 meeting unless one (1) or more water users requests voting using the pro-
21 cedure which follows in this subsection. In such case the meeting chair-
22 man shall appoint a credentials committee to determine the number of votes
23 each water user present is authorized to cast. If requested, each person
24 present, owning or having the use for the ensuing season of any water right
25 in the stream or water supply comprising such water district, which right has
26 been adjudicated or decreed by the court or is represented by valid permit
27 or license issued by the department of water resources, shall be entitled to
28 a number of votes equal to the average annual dollar amount and any fraction
29 thereof assessed for that person's qualifying water right for the previous
30 five (5) years, or such lesser number of years as the right has been assessed.
31 If a right has not previously been assessed, a person present, owning or hav-
32 ing the use of the right for the ensuing season shall be entitled to a number
33 of votes equal to the dollar amount and any fraction thereof which the right
34 would have been assessed had it existed and been reasonably used when water
35 was available under the priority of the right during the previous season.

36 (5) At such meeting the water users shall choose a meeting chairman and
37 meeting secretary and shall determine the manner and method of electing the
38 watermaster. The water users shall, at the annual meeting, provide for the
39 water district treasurer functions in accordance with section 42-619, Idaho
40 Code. Within five (5) days after such meeting the meeting chairman and meet-
41 ing secretary shall forward a certified copy of the minutes of such meeting
42 to the department of water resources. The meeting chairman, or the meeting
43 secretary, if the meeting chairman is not present, from the immediately pre-
44 ceding annual meeting shall call the meeting to order and preside over the
45 election of officers for the meeting.

46 (6) At such meeting the water users may choose an advisory committee to
47 be composed of members selected as may be determined at the meeting, which
48 committee shall serve as advisors to the director and the watermaster in mat-
49 ters pertaining to the distribution of water within the district. The advi-
50 sory committee may be authorized to carry out policies as set forth in reso-

1 lutions duly adopted by the water users at the annual meeting or at a special
2 meeting. The advisory committee may also serve as the local committee to fa-
3 cilitate the rental of stored water if appointed by the water resource board
4 for such purpose under the provisions of section 42-1765, Idaho Code.

5 (7) A corporation or a water delivery organization, including, but not
6 limited to a corporation, a water company, an irrigation district, an irri-
7 gation company or a canal company, shall be considered a person for the pur-
8 pose of this section and shall cast its vote by someone to be designated by
9 the corporation.

10 (8) Should said meeting not be held, or should said watermaster not be
11 elected or the watermaster's compensation not be fixed as above provided,
12 then the director of the department of water resources is authorized to ap-
13 point a watermaster and fix the watermaster's compensation.

14 (9) The director of the department of water resources may remove any
15 watermaster whenever such watermaster fails to perform the watermaster's
16 duty, upon complaint in that respect being made to the director in writing,
17 by one (1) person owning or having the right to the use of a water right in
18 such district, which right has been adjudicated or decreed by the court or is
19 represented by valid permit or license issued by the department of water re-
20 sources provided, that upon investigation the director, after a hearing with
21 the other water users of said district, which shall be held in the district
22 or at some location convenient to the water users of the district, finds such
23 charge to be true, and the director may appoint a successor for the unexpired
24 term.

25 (10) Before entering upon the duties of the watermaster's office, said
26 watermaster shall take and subscribe to an oath before some officer autho-
27 rized by the laws of the state to administer oaths, to faithfully perform
28 the duties of the watermaster's office, as provided in section 42-607, Idaho
29 Code, and shall file that oath with the department of water resources. Upon
30 appointment by the director of the department of water resources, the ac-
31 tions taken by a watermaster in fulfillment of the duties of his office are
32 covered by the state group surety bond as provided by sections 59-801 through
33 59-804, Idaho Code. A duly appointed watermaster that is reelected in con-
34 secutive years shall not be required to take and file additional oaths with
35 the department of water resources for each consecutive year the watermaster
36 is reelected. If a duly elected or appointed watermaster resigns, dies or is
37 physically unable to perform his duties during the remainder of the elected
38 or appointed watermaster term of service, then the director of the depart-
39 ment of water resources is authorized to appoint a successor for the unex-
40 pired term as provided in paragraphs (a) and (b) of this subsection.

41 (a) If a water district advisory committee has been chosen as provided
42 in subsection (6) of this section, the water district advisory commit-
43 tee shall meet to either nominate a successor watermaster or request a
44 special meeting as provided in subsection (11) of this section to elect
45 a new watermaster. Upon receipt of a nomination from a majority of the
46 members of the water district advisory committee, the director of the
47 department of water resources is authorized to appoint the nominated
48 successor watermaster for the unexpired term.

49 (b) If a water district advisory committee has not been chosen, the
50 director of the department of water resources is authorized to appoint

1 a temporary successor watermaster. The temporary appointment extends
2 through the unexpired term unless a special meeting is requested as
3 provided in subsection (11) of this section and water users elect a new
4 watermaster.

5 (11) The director shall call a special meeting of the water users of a
6 district upon receipt of a written request for such meeting from a majority
7 of the members of the advisory committee for a district, a written request
8 from water users representing thirty percent (30%) or more of the votes cast
9 at the last regular annual meeting, a written request from the watermaster or
10 on the director's own motion if the director determines a meeting is neces-
11 sary to address matters that cannot be delayed until the next regular annual
12 meeting. Notice of the time, place and purpose of the special meeting shall
13 be given by the director in the manner provided in subsection (2) of this sec-
14 tion, provided however, that a special meeting notice shall be sent at least
15 fourteen (14) days prior to the meeting date.

16 (12) The water users may, by resolution, authorize the watermaster to
17 acquire, hold and dispose of such real and personal property, equipment and
18 facilities in the name of the water district as necessary for the proper dis-
19 tribution of water, administration of the water district and enhancement of
20 water supplies, and shall provide that all such real and personal property
21 shall remain in the custody of the watermaster and the watermaster's succes-
22 sor.

23 (13) The water users may, by resolution, authorize the watermaster to
24 develop, coordinate or provide, through contract or by other means, for
25 weather modification projects involving cloud seeding that are designed to
26 increase the water supplies of the water district by enhancing natural pre-
27 cipitation and which conform to state water planning objectives.

28 SECTION 2. That Section 42-612, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 42-612. BUDGET OF WATER DISTRICT -- ADOPTION AND CONTENTS -- DEBT OF
31 WATER USER. (1) At any annual meeting the water users must adopt a budget
32 covering the estimated expenses of delivering the water of the district for
33 the ensuing year, and by resolution determine that the budget shall be col-
34 lected. The compensation of the watermaster and the watermaster's assis-
35 tants and any other expenses of delivering the water of the district to the
36 users thereof, including the costs of the advisory committee in implementing
37 resolutions adopted by the water users of the district for activities other
38 than the payment of the salary and operating expenses of the watermaster and
39 assistants, shall be paid in the manner hereinafter, in this section, pro-
40 vided.

41 (2) To the extent possible, funding for advisory committee expenses as-
42 sociated with implementing resolutions adopted by the water users for other
43 than the payment of the salary and operating expenses of the watermaster
44 and assistants shall come from funds available pursuant to section 42-613A,
45 Idaho Code. If funds available pursuant to section 42-613A, Idaho Code,
46 are not sufficient to cover expenses incurred in implementing resolutions
47 adopted by the water users, then such expenses shall come from assessments.

48 (3) The budget shall show the aggregate amount to be collected from all
49 the water users in the district, and the amount to be paid by each ditch,

1 canal company, irrigation district or other water user. For the purpose of
2 computing the respective amounts, to be paid by each water user, the water
3 delivered to the various ditches, canal companies, irrigation districts or
4 other users during the past season or seasons, not exceeding five (5) sea-
5 sons, shall be used as a basis.

6 (4) Upon the adoption of the budget the amount payable by each ditch,
7 canal company, irrigation district or other water user, as shown by the
8 budget, shall become the debt of each respectively and shall become due and
9 payable as hereinafter provided. Other provisions of chapter 6, title 42,
10 Idaho Code, notwithstanding, water users may at the annual meeting by reso-
11 lution provide for an annual minimum charge not to exceed two hundred fifty
12 dollars (\$250) per water user for watermaster services. The minimum charge
13 is applicable whenever the prorated charge against any ditch, canal company,
14 irrigation district or other water user is less than the minimum charge.

15 (5) Other provisions of chapter 6, title 42, Idaho Code, notwithstand-
16 ing, water users at the annual meeting may provide, by resolution, that the
17 respective amounts owed by each water user as shown in the adopted budget
18 shall constitute a final determination of the amount due for that year with-
19 out the need to carry forward any water user debits or credits to the follow-
20 ing year.