

IN THE SENATE

SENATE BILL NO. 1240

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO IRRIGATION; AMENDING SECTION 42-2201, IDAHO CODE, TO INCREASE THE MAXIMUM AMOUNT OF CERTAIN ADMINISTRATIVE CHARGES THAT MAY BE LEVIED.

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

SECTION 1. That Section 42-2201, Idaho Code, be, and the same is hereby amended to read as follows:

42-2201. MAINTENANCE CHARGES -- RIGHT TO COLLECT -- BASIS OF ASSESSMENT -- LIEN. Any corporation heretofore organized or any corporation that shall hereafter be organized for the operation, control or management of an irrigation project or canal system, or for the purpose of furnishing water to its shareholders, and not for profit or hire, the control of which is actually vested in those entitled to the use of the water from such irrigation works for the irrigation of the lands to which the water from such irrigation works is appurtenant, shall have the right to levy and collect from the holders or owners of all land to which the water and water rights belonging to or diverted by said irrigation works are dedicated or appurtenant regardless of whether water is used by such owner or holder, or on or for his land; and also from the holders or owners of all other land who have contracted with such company, corporation or association of persons to furnish water on such lands, regardless of whether such water is used or not from said irrigation works, reasonable administrative charges, tolls, assessments and charges for the purpose of maintaining and operating such irrigation works and conducting the business of such company, corporation or association and meeting the obligations thereof, which tolls, assessments and charges shall, after projecting the revenue to be derived from an administrative charge of not to exceed ~~ten~~ fifty dollars (\$150.00) to be levied against each holder of a stock certificate of the company:

(1) Be equally and ratably levied and may be based upon the number of shares or water rights held or owned by the owner of such land as appurtenant thereto; or

(2) May be based upon the amount of water used or said tolls, assessments and charges may be based on:

(a) A combination of a charge of a fixed amount per share for annual operation and maintenance and a charge for a fixed minimum amount of water per share, whether used or not, plus an additional charge based on the estimated amount of water to be delivered over the minimum, as requested by the farmer, including the energy costs of said excess delivery; or

(b) A combination of a charge for energy costs, based on the amount of water delivered, and a separate charge for all other operation and maintenance costs, based on the number of shares or water rights; or

1           (3) May be based upon any other method of assessment fairly allocating  
2 the costs of operating and maintaining the irrigation works which has been  
3 approved by the affirmative vote of at least two-thirds (2/3) of the shares  
4 entitled to vote at any annual, regular or special meeting of the sharehold-  
5 ers at which the question of approving the method of assessment is brought  
6 properly before the meeting.

7           Such company, corporation or association of persons shall have a first  
8 and prior lien, except as to the lien of taxes, upon the land to which such  
9 water and water rights are appurtenant, or upon which it is used, said lien  
10 to be perfected, maintained and foreclosed in the manner set forth in this  
11 chapter: provided, that any right to levy and collect tolls, administrative  
12 charges, assessments and charges by any person, company of persons, associ-  
13 ation or corporation, or the right to a lien for the same, which does or may  
14 hereafter otherwise exist, is not impaired by this chapter.