

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 366

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO WATER; AMENDING SECTION 42-605, IDAHO CODE, TO REVISE PROVISIONS
2 REGARDING MEETINGS AND TO REVISE PROVISIONS REGARDING WATERMASTERS;
3 AMENDING SECTION 42-605A, IDAHO CODE, TO REMOVE A CODE REFERENCE;
4 AMENDING SECTION 42-606, IDAHO CODE, TO REVISE PROVISIONS REGARDING
5 WATERMASTER REPORTS; AMENDING SECTION 42-607, IDAHO CODE, TO REVISE
6 PROVISIONS REGARDING THE DISTRIBUTION OF WATER; AMENDING SECTION
7 42-610, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE COMPENSATION OF
8 WATERMASTERS AND WATERMASTER ASSISTANTS AND THE ASSESSMENT OF SUCH COM-
9 PENSATION; AMENDING SECTION 42-612, IDAHO CODE, TO REVISE PROVISIONS
10 REGARDING WATER DISTRICT BUDGETS; REPEALING SECTION 42-613, IDAHO
11 CODE, RELATING TO BUDGETS, COLLECTION, AND THE PAYMENT OF DISTRICT EX-
12 PENSES; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A
13 NEW SECTION 42-613, IDAHO CODE, TO PROVIDE FOR BUDGETS, TO PROVIDE FOR
14 CERTAIN RESOLUTIONS, TO PROVIDE FOR THE COLLECTION OF CERTAIN AMOUNTS,
15 TO PROVIDE FOR PENALTIES AND INTEREST FOR UNPAID EXPENSES, TO PROVIDE
16 FOR THE WITHHOLDING OR SUSPENSION OF CERTAIN WATER DELIVERIES, AND TO
17 PROVIDE FOR THE CONTENT OF CERTAIN NOTICE; REPEALING SECTION 42-615,
18 IDAHO CODE, RELATING TO PROPOSED BUDGETS FOR THE SUCCEEDING YEAR;
19 REPEALING SECTION 42-617, IDAHO CODE, RELATING TO THE COLLECTION OF
20 BUDGETS, THE WITHHOLDING OF THE DELIVERY OF WATER UNTIL CHARGES PAID,
21 FILING OF RESOLUTIONS, AND COLLECTION OF CERTAIN AMOUNTS; REPEALING
22 SECTION 42-618, IDAHO CODE, RELATING TO ALTERNATE PLANS OF COLLECTING
23 EXPENSES; AND AMENDING SECTION 42-619, IDAHO CODE, TO REVISE PROVISIONS
24 REGARDING THE ELECTION AND APPOINTMENT OF WATER DISTRICT TREASURERS, TO
25 AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES TO FIX THE
26 TREASURER'S COMPENSATION, TO REVISE PROVISIONS REGARDING THE TRANS-
27 MITTAL OF CERTAIN MONEYS TO WATER DISTRICTS, AND TO REMOVE PROVISIONS
28 REGARDING THE ELECTION OR APPOINTMENT OF WATER DISTRICT TREASURERS BY
29 RESOLUTION UNDER CERTAIN CIRCUMSTANCES.
30

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

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

34 42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION
35 -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on
36 the first Monday in March in each year, except as provided in subsection (2)
37 of this section, a meeting of ~~all~~ persons owning or having the use of a water
38 right, ~~in the waters of the stream or water supply comprising such district~~
39 that is assessed or proposed to be assessed by such district, which right has
40 been adjudicated or decreed by the court or is represented by valid permit or
41 license issued by the department of water resources.

1 (2) Such meeting shall be held at some place within the water district,
 2 or at some nearby location convenient to a majority of those entitled to vote
 3 thereat. The director of the department of water resources shall, at least
 4 twenty-one (21) days prior to the meeting date, send notification by regu-
 5 lar mail to all persons, companies, corporations or other entities known by
 6 the director to hold rights ~~to the use of the waters of~~ that are assessed or
 7 proposed to be assessed by such district, which right has been adjudicated
 8 or decreed by the court or is represented by valid permit or license issued
 9 by the department of water resources, of the time, date, location and pur-
 10 pose of the annual meeting. At any annual meeting, the water users may vote
 11 to waive the requirement for notice by mail and provide for notice to be given
 12 for future meetings by publication of the time, date, location and purpose of
 13 the meeting in a newspaper or newspapers in general circulation in the dis-
 14 trict or on the department of water resources website. Published notice in
 15 a newspaper or newspapers shall be made once per week for two (2) consecutive
 16 weeks with the second notice appearing at least fourteen (14) and not more
 17 than thirty (30) days prior to the meeting. Notice on the department of water
 18 resources website shall be posted at least twenty-one (21) days prior to the
 19 meeting date. At any annual meeting, the water users may vote to change the
 20 date for annual meetings in subsequent years to any day, except Saturday and
 21 Sunday, between the second Monday of January and the fourth Tuesday of May,
 22 ~~in which case the director shall send notification at least twenty-one (21)~~
 23 ~~days prior to said meeting date.~~ At an annual meeting, the water users may
 24 adopt resolutions to assure or improve the distribution of the waters of the
 25 district within state law, and may provide that such resolutions shall con-
 26 tinue from year to year.

27 (3) At the meeting of the water users of a district, there shall be
 28 elected a watermaster for such water district, who may be authorized to em-
 29 ploy such other regular assistants as the water users shall deem necessary,
 30 and who, upon appointment by the director, shall be responsible for distri-
 31 bution of water within said water district. Notwithstanding any personnel
 32 classification assigned to the watermaster and assistants pursuant to the
 33 provisions of chapter 53, title 67, Idaho Code, the water users shall, prior
 34 to the election of such watermaster and approval of the employment of assis-
 35 stants, fix the compensation to be paid them during the time actually engaged
 36 in the performance of their duties.

37 (4) Voting shall be by majority vote of the water users present at the
 38 meeting unless one (1) or more water users requests voting using the proce-
 39 dure which follows in this subsection. In such case, the meeting chairman
 40 shall appoint a credentials committee to determine the number of votes each
 41 water user present is authorized to cast. If requested, each person present,
 42 ~~owning, or having~~ who owns or has the use for the ensuing season of any wa-
 43 ter right in the stream or water supply comprising such water district that
 44 is assessed or proposed to be assessed by such district, which right has been
 45 adjudicated or decreed by the court or is represented by valid permit or li-
 46 cence issued by the department of water resources, shall be entitled to a
 47 number of votes equal to the average annual dollar amount and any fraction
 48 thereof assessed for that person's qualifying water right for the previous
 49 five (5) years, or such lesser number of years as the right has been assessed.
 50 If a right has not previously been assessed, a person present, ~~owning or hav-~~

1 ~~ing~~ who owns or has the use of the right for the ensuing season shall be enti-
2 tled to a number of votes equal to the dollar amount and any fraction thereof
3 ~~which that~~ the right would have been assessed had it existed and been reason-
4 ably used when water was available under the priority of the right during the
5 previous season. Absentee voting and voting by proxy are prohibited.

6 (5) At such meeting, the water users shall choose a meeting chairman
7 and meeting secretary. The water users of any water district that collects
8 or pays district expenses in accordance with section 42-6183(3) or 42-619,
9 Idaho Code, shall also elect a water district treasurer. Within five (5)
10 business days after such meeting, the meeting chairman and meeting secretary
11 shall forward a certified copy of the minutes of such meeting to the depart-
12 ment of water resources. The meeting chairman, or the meeting secretary, if
13 the meeting chairman is not present, from the immediately preceding annual
14 meeting shall call the meeting to order and preside over the election of of-
15 ficers for the meeting.

16 (6) At such meeting, the water users may choose an advisory committee
17 to be composed of members selected as may be determined at the meeting, which
18 committee shall serve as advisors to the director and the watermaster in mat-
19 ters pertaining to the distribution of water within the district. The advi-
20 sory committee may be authorized to carry out policies as set forth in reso-
21 lutions duly adopted by the water users at the annual meeting or at a special
22 meeting. The advisory committee may also serve as the local committee to fa-
23 cilitate the rental of stored water if appointed by the water resource board
24 for such purpose under the provisions of section 42-1765, Idaho Code.

25 (7) A corporation or a water delivery organization, including, but not
26 limited to ~~a corporation~~, a water company, an irrigation district, an irri-
27 gation company or a canal company, shall be considered a person for the pur-
28 pose of this section and shall designate someone to cast its vote.

29 (8) Should said meeting not be held, or should said watermaster not be
30 elected or the watermaster's compensation not be fixed as above provided,
31 then the director is authorized to appoint a watermaster and fix the water-
32 master's compensation.

33 (9) The director may remove any watermaster whenever such watermaster
34 fails to perform the watermaster's duty, upon complaint made to the director
35 in writing, by one (1) person owning or having the right to the use of a wa-
36 ter right ~~in that is assessed by~~ such district, which right has been adjudi-
37 cated or decreed by the court or is represented by valid permit or license is-
38 sued by the department of water resources, provided, that upon investigation
39 the director, after a hearing with the other water users of said district,
40 which shall be held in the district or at some location convenient to the wa-
41 ter users of the district, finds such charge to be true, and the director may
42 appoint a successor for the unexpired term.

43 (10) Before entering upon the duties of the watermaster's office, said
44 watermaster shall take and subscribe to an oath before some officer autho-
45 rized by the laws of the state to administer oaths, to faithfully perform
46 the duties of the watermaster's office, as provided in section 42-607, Idaho
47 Code, and shall file that oath with the department of water resources. Upon
48 appointment by the director, the actions taken by a watermaster in fulfill-
49 ment of the duties of ~~his~~ the office are covered by the state group surety
50 bond as provided by sections 59-801 through 59-804, Idaho Code. A duly ap-

1 pointed watermaster that is reelected in consecutive years shall not be re-
2 quired to take and file additional oaths with the department of water re-
3 sources for each consecutive year the watermaster is reelected. If a duly
4 elected or appointed watermaster resigns, dies or is physically unable to
5 perform his the duties of the office during the remainder of the elected or
6 appointed watermaster term of service, then the director is authorized to
7 appoint a successor for the unexpired term as provided in paragraphs (a) and
8 (b) of this subsection.

9 (a) If a water district advisory committee has been chosen as provided
10 in subsection (6) of this section, the water district advisory commit-
11 tee shall meet to either nominate a successor watermaster or request a
12 special meeting as provided in subsection (11) of this section to elect
13 a new watermaster. Upon receipt of a nomination from a majority of the
14 members of the water district advisory committee, the director is au-
15 thorized to appoint the nominated successor watermaster for the unex-
16 pired term.

17 (b) If a water district advisory committee has not been chosen, the
18 director of the department of water resources is authorized to appoint
19 a temporary successor watermaster. The temporary appointment extends
20 through the unexpired term unless a special meeting is requested as
21 provided in subsection (11) of this section and water users elect a new
22 watermaster.

23 (11) The director shall call a special meeting of the water ~~users of a~~
24 district upon receipt of a written request for such meeting from a majority
25 of the members of the advisory committee for a district, a written request
26 from water users representing thirty percent (30%) or more of the votes cast
27 at the last regular annual meeting, a written request from the watermaster,
28 or on the director's own motion if the director determines a meeting is nec-
29 essary to address matters that cannot be delayed until the next regular an-
30 nual meeting. Notice of the time, place and purpose of the special meeting
31 shall be given by the director in the manner provided in subsection (2) of
32 this section, provided however, that a special meeting notice shall be sent
33 at least fourteen (14) days prior to the meeting date.

34 (12) The water users may, by resolution, authorize the watermaster to
35 acquire, hold and dispose of such real and personal property, equipment and
36 facilities in the name of the water district as necessary for the proper dis-
37 tribution of water, administration of the water district and enhancement of
38 water supplies, and shall provide that all such real and personal property
39 shall remain in the custody of the watermaster and the watermaster's succes-
40 sor.

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

46 SECTION 2. That Section 42-605A, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 42-605A. NONCONSUMPTIVE WATER RIGHTS -- ASSESSMENTS -- VOTING. (1)
49 Notwithstanding other provisions of this chapter, the setting of annual wa-

1 ter district assessments and the voting of permitted, licensed and decreed
2 water rights administered by the watermaster solely for nonconsumptive
3 purposes shall be determined in accordance with the provisions of this sec-
4 tion. For purposes of this chapter, a water right is nonconsumptive if so
5 designated by provisions of the permit or license issued by the department of
6 water resources, or otherwise so designated by the director, or by decree of
7 the court allowing use of the right to continue when the diversion of earlier
8 priority water rights from the same source has been reduced or stopped by
9 action of the watermaster.

10 (2) A nonconsumptive water right is subject to the provisions of
11 this section if water is taken into man-made facilities for beneficial use
12 whether or not the water leaves the river or stream channel. Instream flow
13 water rights held in the name of governmental entities or agencies for the
14 protection of fish and wildlife habitat, aquatic life, recreation, aes-
15 thetic beauty, transportation and navigation values, and water quality
16 shall be exempt from the payment of assessments and the rights shall not be
17 voted. The procedure for collection and payment of the assessments shall be
18 the same as used for consumptive water rights under this chapter.

19 (3) In preparing the next year's budget, the watermaster shall deter-
20 mine an assessment for the ensuing year for each water right used solely for
21 nonconsumptive purposes. The assessment shall be sufficient to pay the ad-
22 ditional costs and expenses for watermaster services for data collection,
23 water measurement, delivery of water, and record keeping directly attribut-
24 able to delivery of the water right.

25 (4) The assessment shall not become final until adopted as part of the
26 water district budget at the annual meeting of water users in accordance with
27 section 42-612, Idaho Code. The assessment shall not exceed an amount nec-
28 essary to pay for watermaster services associated with the nonconsumptive
29 right. Nothing in this section shall affect the right, under section 42-612,
30 Idaho Code, of the water users at the annual meeting to provide by resolution
31 for a minimum charge for watermaster services, except as to those instream
32 flow rights exempt from the payment of assessments under this section.

33 (5) The holder of a water right assessed under the provisions of this
34 section who desires to contest the amount of an assessment for a nonconsump-
35 tive water right shall file a written petition with the director of the de-
36 partment of water resources stating the grounds for contesting the assess-
37 ment and requesting a hearing. The petition must be filed with the director
38 within thirty (30) days after the billing is mailed to the holder of the water
39 right as provided in section 42-613 ~~or 42-618~~, Idaho Code. The hearing be-
40 fore the director and any judicial review thereof shall be in accordance with
41 the provisions of section 42-1701A, Idaho Code. The filing of a petition un-
42 der this section shall not relieve the holder of a nonconsumptive water right
43 from the obligation to pay the assessment when due and payable. The amount
44 of any excessive or deficient assessment determined by a final order of the
45 director shall be credited or collected in the succeeding year in the manner
46 provided under section 42-606, Idaho Code.

47 (6) At water district meetings, each person present holding a water
48 right used solely for nonconsumptive purposes shall be entitled to a number
49 of votes equal to the average dollar amount and any fraction thereof assessed
50 in accordance with subsection (3) of this section for that person's quali-

1 fying nonconsumptive water right for the previous five (5) years, or such
 2 lesser number of years as the right has been assessed in accordance with sub-
 3 section (3) of this section. If a nonconsumptive right has not been assessed
 4 in previous years using subsection (3) of this section, a person present
 5 owning or having the use of the right for the ensuing season shall be entitled
 6 to a number of votes equal to the dollar amount and any fraction thereof which
 7 the right is assessed under subsection (3) of this section for the ensuing
 8 season.

9 SECTION 3. That Section 42-606, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 42-606. REPORTS OF WATERMASTERS. All watermasters shall make an an-
 12 nual report to the department of water resources prior to the expiration of
 13 the watermaster's appointment for the current year. This report shall show
 14 the total ~~amount~~ volume of water delivered by the watermaster during the
 15 preceding year, the ~~amount~~ volume delivered to each water user, the total
 16 expense of delivery and the apportionment of expenses among users and all
 17 debits and credits to be carried over to the following year. Such report
 18 shall also include the number of days the watermaster and watermaster as-
 19 sistants have devoted to the distribution of such water and any records of
 20 stream flow the watermaster used or made in the process of distributing water
 21 supplies. The director may ask for other information deemed necessary in
 22 assuring proper distribution of water supplies within the district. The
 23 reports of watermasters to the department of water resources shall be filed
 24 and kept in the office of the department.

25 SECTION 4. That Section 42-607, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 42-607. DISTRIBUTION OF WATER. It shall be the duty of said watermas-
 28 ter to distribute the waters of the public stream, streams, or water supply,
 29 comprising a water district, among the ~~several ditches~~ water users taking
 30 water therefrom according to the prior rights of each respectively, in whole
 31 or in part, and to shut and fasten, or cause to be shut or fastened, under the
 32 direction of the department of water resources, the headgates ~~of the ditches~~
 33 ~~or other facilities~~ or controlling works for the diversion of water from such
 34 stream, streams, or water supply, ~~when in~~ during times of water scarcity, ~~of~~
 35 ~~water it is necessary so to do~~ in order to supply the prior rights of others
 36 ~~in~~ from such stream or water supply; provided, that any person or corporation
 37 claiming the right to the use of the waters of the stream or water supply com-
 38 prising a water district, but not owning or having the use of an adjudicated
 39 or decreed right therein, or right therein evidenced by permit or license is-
 40 sued by the department of water resources, shall, for the purposes of distri-
 41 bution during ~~the scarcity~~ times of water scarcity, be held to have a right
 42 subsequent to any adjudicated, decreed, permit, or licensed right ~~in~~ from
 43 such stream or water supply, and the watermaster shall close all headgates or
 44 controlling works of ~~ditches or other~~ diversions having no adjudicated, de-
 45 creed, permit or licensed right if necessary to supply adjudicated, decreed,
 46 permit or licensed right in such stream or water supply. ~~So~~ As long as a duly
 47 elected watermaster is charged with the administration of the waters within

1 a water district, no water user within such district can adversely possess
2 the right of any other water user.

3 SECTION 5. That Section 42-610, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 42-610. COMPENSATION OF WATERMASTERS -- ALLOTMENT AND CHARGE AGAINST
6 LAND -- CHARGE AGAINST CANAL. ~~Watermasters herein provided for shall make~~
7 ~~up a sworn statement which shall be approved by the department of water re-~~
8 ~~sources, and shall show the number of days said watermaster has devoted to~~
9 ~~the distribution of such water, and the number of days the watermaster's as-~~
10 ~~stant or assistants have devoted to the same purpose, and such statement~~
11 ~~shall also show the volume of water, stated in cubic feet per second, the~~
12 ~~watermaster has by virtue of the allotment of said waters delivered to each~~
13 ~~user each day. The pay for the services of said the watermaster and the wa-~~
14 ~~termaster's assistants shall be a charge assessed against the land of the~~
15 ~~water users to which said water was so delivered, the expense for said ser-~~
16 ~~vices being first divided between all classes as to priority of allotment or~~
17 ~~decree, in the proportion which the number of days such water is received by~~
18 ~~all users in the same class of priority of allotment or decree bears to the~~
19 ~~whole number of days said watermaster is engaged in distributing said water;~~
20 ~~the amount charged to each user in the same class of priority of allotment~~
21 ~~or decree bearing the same proportion to the amount charged to all users in~~
22 ~~the same class of priority of allotment or decree as. The amount assessed to~~
23 ~~each user shall be a pro rata share based on the volume of water delivered to~~
24 ~~each water user bears in proportion to the whole amount delivered to all of~~
25 ~~like class of priority of allotment or decree, by the said watermaster and~~
26 ~~the watermaster's assistants. This statement, which shall show the proper~~
27 ~~distribution of the said expenses among the various users, shall be filed~~
28 ~~with the auditor and recorder of the county or counties in which the said wa-~~
29 ~~ter was delivered, unless such county or counties have elected to not pro-~~
30 ~~vide county services for the collection of assessments and payment of dis-~~
31 ~~trict expenses as provided in section 42-619, Idaho Code: provided, that in~~
32 ~~counties which have not so elected to decline providing the services, when~~
33 ~~water users. When any portion of the allotted waters is distributed by said~~
34 ~~watermaster to the canal of any duly organized canal company water delivery~~
35 ~~organization, the amount of the expense chargeable for such services shall~~
36 ~~be a charge assessed against such canal and the account of such charge to be~~
37 ~~paid by the county in the manner herein provided shall be charged as a tax~~
38 ~~against such canal, which tax shall be collected in the manner provided by~~
39 ~~law for the collection of other taxes, and no canal in this state shall be ex-~~
40 ~~empt from the payment of such tax, whether the water right be decreed or unde-~~
41 ~~creed, or whether the water so distributed to said canal be the natural flow~~
42 ~~of the stream, or stored water, or whatever may be its source, nature or de-~~
43 ~~scription.~~

44 SECTION 6. That Section 42-612, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 42-612. PROPOSED WATER DISTRICT BUDGET FOR SUCCEEDING YEAR -- ADOP-
47 TION AND CONTENTS OF BUDGET OF WATER DISTRICT ~~--- ADOPTION AND CONTENTS --~~

1 DEBT OF WATER USER. (1) Each watermaster shall, at least fourteen (14) days
2 prior to the annual meeting of the water users of the water district, prepare
3 a proposed budget for the succeeding year, together with a distribution of
4 the pro rata amounts of the budget assessed to the respective water users or
5 water delivery organizations using the actual volume of water delivered for
6 the past season or seasons. The proposed budget and distribution of pro rata
7 assessments shall be presented to the water users for consideration and ap-
8 proval at the next annual meeting.

9 (2) At any annual meeting, the water users must adopt a budget covering
10 the estimated expenses of delivering the water of the district for the en-
11 suing year, and by resolution determine that the budget shall be collected.
12 The compensation of the watermaster and the watermaster's assistants and any
13 other expenses of delivering the water of the district to the users thereof,
14 including the costs of the advisory committee in implementing resolutions
15 adopted by the water users of the district for activities other than the pay-
16 ment of the salary and operating expenses of the watermaster and assistants,
17 shall be paid in the manner hereinafter, in this section, provided.

18 (23) To the extent possible, funding for advisory committee expenses
19 associated with implementing resolutions adopted by the water users for
20 other than the payment of the salary and operating expenses of the water-
21 master and assistants shall come from funds available pursuant to section
22 42-613A, Idaho Code. If funds available pursuant to section 42-613A, Idaho
23 Code, are not sufficient to cover expenses incurred in implementing res-
24 olutions adopted by the water users, then such expenses shall come from
25 assessments.

26 (34) The budget shall show the aggregate amount to be collected from
27 all the water users in the district, and the amount to be paid by each ditch,
28 canal company, irrigation district water delivery organization or other wa-
29 ter user. For the purpose of computing the respective amounts to be paid by
30 each water user, the actual volume of water delivered to the various ditches,
31 canal companies, irrigation districts each water delivery organization or
32 other water users during the past season or seasons, not exceeding five (5)
33 seasons, shall be used as a basis. If a right has not previously been as-
34 essed or if past season delivery records are not available, the watermaster
35 may, by resolution of the water users, estimate the volume of water delivered
36 or reasonably used when water was available under the priority of the right
37 during the past season or seasons.

38 (45) Upon the adoption of the budget, the amount payable by each ditch,
39 canal company, irrigation district water delivery organization or other wa-
40 ter user, as shown by the budget, shall become the debt of each respectively
41 and shall become due and payable as hereinafter provided. Other provisions
42 of chapter 6, title 42, Idaho Code, notwithstanding, water users may at
43 the annual meeting by resolution provide for an annual minimum charge not
44 to exceed two hundred fifty dollars (\$250) per water user for watermaster
45 services. The minimum charge is applicable whenever the prorated charge
46 against any ditch, canal company, irrigation district water delivery organ-
47 ization or other water user is less than the minimum charge.

48 (56) Other provisions of chapter 6, title 42, Idaho Code, notwithstand-
49 ing, water users at the annual meeting may provide, by resolution, that the
50 respective amounts owed by each water user as shown in the adopted budget

1 shall constitute a final determination of the amount due for that year with-
2 out the need to carry forward any water user debits or credits to the follow-
3 ing year.

4 SECTION 7. That Section [42-613](#), Idaho Code, be, and the same is hereby
5 repealed.

6 SECTION 8. That Chapter 6, Title 42, Idaho Code, be, and the same is
7 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
8 ignated as Section 42-613, Idaho Code, and to read as follows:

9 42-613. BUDGET -- FILING OF RESOLUTIONS AND COPIES -- COLLECTION --
10 TIME FOR COLLECTION OF BUDGET -- PAYMENT OF DISTRICT EXPENSES BY COUNTY --
11 WATER NOT DELIVERED UNTIL CHARGES PAID. (1) The budget when adopted shall be
12 filed with the secretary of the meeting and thereupon the watermaster shall
13 immediately prepare and file a certified copy of the budget, along with a
14 copy of all resolutions adopted at the annual meeting, with the director of
15 the department of water resources.

16 (2) At any annual meeting, the water users may, by resolution, desig-
17 nate the county or counties in which water is delivered to collect the com-
18 pensation of the watermaster and watermaster assistants, and other expenses
19 of delivering water within the district, in the manner provided by law for
20 the collection of other taxes. When the county or counties are so desig-
21 nated, a certified copy of the budget, along with a copy of all resolutions
22 adopted at the meeting and under the provisions of this section, shall be
23 filed with the county or counties so designated. If more than one (1) county
24 is designated, then the budget shall show the amount to be collected in each
25 county and from which water users each county shall collect. Each county
26 or counties so designated shall immediately prepare a roll showing the to-
27 tal amount of the budget to be collected by the county and the respective
28 amounts to be collected from each water delivery organization or other water
29 user. When the roll is completed, the county auditor shall deliver the roll
30 to the county treasurer for collection. The county treasurer shall there-
31 upon mail a notice to each water delivery organization or other water user of
32 the amount payable by each such water user for the distribution of water and
33 other expenses of the district for the ensuing year. The county treasurer,
34 upon receipt of the roll, shall open a special account to be known as "Wa-
35 ter District Funds" and shall credit to the account all moneys received
36 from the water users of said district. The water users may, by resolution,
37 designate the county or counties that collect the expenses of the district to
38 pay the compensation of the watermaster and watermaster assistants and any
39 other charges against said water district from the funds of said account in
40 the same manner as bills against the county are paid, unless such county or
41 counties have determined not to provide county services for the payment of
42 district expenses as provided in section 42-619, Idaho Code.

43 (3) At any annual meeting, the water users may, by resolution, autho-
44 rize the watermaster or water district treasurer to collect the compensa-
45 tion of the watermaster and watermaster assistants, and other expenses of
46 delivering water within the district, directly from the water users. When so
47 authorized, the watermaster or water district treasurer shall collect such
48 compensation and expenses directly from the water users and shall turn the

1 collected funds over to the water district treasurer for deposit and dis-
2 bursement in accordance with section 42-619, Idaho Code.

3 (4) In any water district, whether expenses are collected from water
4 users either by a county or directly by the water district watermaster or
5 treasurer, the water users may, by resolution at an annual meeting, fix a
6 date upon which the amount shall be due and payable of said year and if not
7 paid when due shall bear a penalty not to exceed ten percent (10%) of the
8 amount owed and interest of one percent (1%) per month, both of which shall
9 be fixed by resolution from said date until paid.

10 (5) The water users in such water districts may also, at any annual
11 meeting, authorize the watermaster to withhold water deliveries, or suspend
12 water deliveries in the event delivery has commenced, from those users who
13 have not paid their pro rata share of the cost of operating the district as
14 levied until such time as said pro rata share of the cost is paid.

15 (6) Notice of the amount due by each water user, as shown by the adopted
16 budget at the annual meeting, to be mailed to each respective water user by
17 the county treasurer or the water district watermaster or treasurer, shall
18 also state the substance of any resolution adopted pursuant to this section.

19 SECTION 9. That Section [42-615](#), Idaho Code, be, and the same is hereby
20 repealed.

21 SECTION 10. That Section [42-617](#), Idaho Code, be, and the same is hereby
22 repealed.

23 SECTION 11. That Section [42-618](#), Idaho Code, be, and the same is hereby
24 repealed.

25 SECTION 12. That Section 42-619, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 42-619. ALTERNATE PLAN FOR PAYMENT OF DISTRICT EXPENSES -- TREASURER
28 -- ELECTION -- OATH AND BOND -- REMOVAL -- COMPENSATION. (1) The county com-
29 missioners of any county, having determined that providing the service of
30 payment of water district expenses by the county treasurer from water dis-
31 trict funds pursuant to section 42-613(2), Idaho Code, is an undue burden
32 upon the county and shall no longer be provided, shall notify the director
33 of the department of water resources of this action by December 1 in the year
34 preceding the year for which the action shall first be effective by providing
35 to the director a certified copy of the resolution of the commissioners tak-
36 ing such action.

37 (2) Notice of the action of the county commissioners shall be given to
38 the water users of the district by the department of water resources together
39 with the notice of the annual meeting given pursuant to section 42-605, Idaho
40 Code.

41 (3) At each annual meeting of a district for which the county commis-
42 sioners have taken the action provided for in subsection (1) of this section,
43 or for which the water users have taken the action provided for in section
44 42-613(3), Idaho Code, the water users shall provide for the election ~~or~~ and
45 appointment of a water district treasurer. If a water district treasurer is
46 not elected at the annual meeting, and one is found to be necessary, the di-

1 rector of the department of water resources ~~shall~~ is authorized to appoint
2 a water district treasurer and fix the treasurer's compensation. The water
3 district treasurer shall keep a complete, accurate and permanent record of
4 all moneys received by and disbursed for and on behalf of the district. The
5 water district treasurer shall deposit all moneys of the district in a des-
6 ignated depository approved at the annual meeting, and shall comply with the
7 public depository law as contained in chapter 1, title 57, Idaho Code.

8 (4) Before undertaking the duties of the office, the water district
9 treasurer shall take and subscribe to an oath before an officer authorized by
10 the laws of the state to administer oaths, to faithfully perform the duties
11 of the office, and shall file the oath with the director of the department of
12 water resources. Upon issuance by the director of a certificate confirming
13 the election or appointment of a water district treasurer, the actions taken
14 by the water district treasurer in fulfillment of the duties of the office
15 are covered by the state group surety bond as provided in sections 59-801
16 through 59-804, Idaho Code. A duly appointed treasurer that is reelected in
17 consecutive years shall not be required to take and file additional oaths
18 with the department of water resources for each consecutive year the trea-
19 surer is reelected.

20 (5) The water district treasurer shall serve until a successor is
21 elected or appointed, and qualified. A water district treasurer may be re-
22 moved from office by the director for failure to perform the duties of the
23 office in the manner provided for removal of a watermaster as provided by
24 section 42-605(9), Idaho Code.

25 (6) Compensation for the services of the water district treasurer shall
26 be set at the annual meeting and may be established on a fixed-sum, per diem,
27 or voluntary basis. If a water district treasurer is appointed by the direc-
28 tor in the absence of being elected at the annual meeting, the director shall
29 fix the compensation to be paid, if any.

30 (7) With respect to any district for which the county commissioners
31 have taken the action provided for in subsection (1) of this section, or for
32 which the water users have taken the action provided for in ~~subsection (10)~~
33 ~~of this section~~ 42-613(3), Idaho Code, and have notified the county thereof,
34 the county auditor shall in the time and manner provided by section 63-1202,
35 Idaho Code, transmit to the water district treasurer of the water district
36 a settlement of all moneys belonging to such district paid into the county
37 treasury and apportioned to such water district on or after the second Monday
38 of the preceding month; provided, however, that in the months of July and
39 January, the money may be transmitted no later than the 25th of the month.
40 The treasurer of the water district shall immediately deposit the funds in
41 the designated depository for the district.

42 (8) The treasurer of the water district shall ~~only~~ disburse moneys from
43 the water district account only upon submission of a written voucher ap-
44 proved by the watermaster for expenses incurred for water district purposes
45 related to the delivery of water or by a voucher approved by the chairman of
46 the advisory committee for activities pursuant to resolutions adopted by
47 the water users from district funds or funds retained pursuant to section
48 42-613A, Idaho Code.

49 (9) It shall be the duty of the water district treasurer to prepare a
50 statement of the financial affairs of the district at the end of each fiscal

1 year and to file the statement with the director of the department of water
2 resources. An audit of the financial affairs of the district shall be made as
3 required in section 67-450B, Idaho Code. A certified copy of the audit shall
4 be filed with the director of the department of water resources following the
5 audit.

6 ~~(10) In any water district for which the county commissioners have not~~
7 ~~taken the action provided for in subsection (1) of this section, the water~~
8 ~~users may at the annual meeting of the district approve a resolution autho-~~
9 ~~rizing the election or appointment of a water district treasurer who shall~~
10 ~~exercise all duties and responsibilities of a treasurer provided for in this~~
11 ~~section.~~

12 ~~(11)~~ In water districts with an annual budget of seven thousand five
13 hundred dollars (\$7,500) or less, the water users may, by resolution adopted
14 at the annual meeting, authorize the watermaster to serve as water district
15 treasurer. Watermasters in water districts with annual budgets in excess of
16 seven thousand five hundred dollars (\$7,500) shall not be authorized to act
17 as water district treasurer.