

STATEMENT OF PURPOSE

RS28760 / H0307

These amendments delete Section 42-1101, which appears to recognize the riparian doctrine in Idaho – a doctrine that Idaho courts have long-recognized does not apply in Idaho. These amendments also change existing statutes in response to an increase in legal disputes regarding the nature and scope of rights-of-way and easements for irrigation ditches, canals and conduits.

1. Amend section 42-1102 to improve readability;
2. Amend section 42-1102 to clarify the rights and obligations associated with operating, cleaning, maintaining and repairing the rights-of-way and easements created or confirmed pursuant to that section, consistent with existing common law principles, including the right to remove debris from the rights-of-way;
3. Amend section 42-1102 to codify the common law standard applied by Idaho courts regarding the extent to which debris may be deposited on a right-of-way or easement. In particular, Section 42-1102 currently recognizes that debris may be deposited within a right-of-way or easement but can occupy “no greater width of land along the banks of the canal or ditch than is absolutely necessary.” The Idaho Supreme Court has interpreted the statute to hold the owners and operators of these facilities to a “rule of reasonableness.” The proposed amendments seek to align the statute with appellate court decisions by providing that debris may be deposited along the banks so long as the extent of it is “reasonably necessary.”
4. Amend section 42-1204 to clarify that the rights and obligations of irrigation entities also apply to existing embankments.
5. Clarify that the rights and obligations recognized in these sections apply to existing irrigation facilities.

FISCAL NOTE

These amendments clarify language regarding rights-of-way and easements for ditches, canals and conduits and, therefore, will have no impact on the general fund.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).