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Sent via email

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Shelley Woods, Secretary (ssheridan@lso.idaho.gov)

Sen. C. Scott Grow (sgrow@senate.idaho.gov)
Sen. Ali Rabe (Arabe@senate.idaho.gov)
Rep. Jeff Ehlers (jehlers@house.idaho.gov)
Rep. Brooke Green (Dgreen@house.idaho.gov)

RE: Draft Interim Uniform Accounting & Reporting Manual

Co-Chairs Grow & Cannon, Members of the Interim Committee on Uniform Accounting & Transparency:

On behalf of the Idaho Water Users Association (IWUA), I write to express our concerns about the draft Interim Uniform Accounting & Reporting Manual (“Manual”). The State Controller’s Office (SCO) will present the Manual to your Committee on Friday, September 20, seeking approval as required by House Bill 73 (Idaho Code sections 67-448(5) and 67-1075(1)).

IWUA is a non-profit corporation representing approximately 300 canal companies, irrigation districts, ground water districts, municipal and public water suppliers, hydroelectric companies, aquaculture interests, agri-businesses, professional firms and individuals throughout Idaho. Our purpose is to promote, aid and assist in the development, control, conservation, preservation and utilization of Idaho’s water resources.

I. Irrigation districts already report financial information consistent with the intent of House Bill 73.

Among IWUA’s members are irrigation districts, ground water districts and water districts – each considered local government entities. Given that several of our members stand to be impacted by the reporting requirements of House Bill 73, and the SCO’s implementation of those reporting requirements, we have attempted to engage the SCO on this matter.

Unfortunately, notwithstanding these efforts, the Manual’s accounting and reporting requirements for irrigation districts were not developed collaboratively with IWUA or any Idaho irrigation districts. We expressed concerns about the process and draft reporting forms for irrigation districts to the SCO before it issued the draft Manual. Yet, those concerns were not addressed. The SCO did not solicit comments on the draft Manual.

To be clear, Idaho irrigation districts do not oppose public reporting of pertinent financial information. Indeed, irrigation districts annually prepare and file audits with the central registry and reporting portal on the legislative services office website, as required by I.C. 67-450E, and publish “full, true and correct statement[s] of the[ir] financial condition,” as required by I.C. 43-324. Through these long-standing reporting requirements, irrigation districts already meet the transparency objectives of House Bill 73 by providing complete and accurate financial information for public review.

The apparent purpose of the Manual’s proposed accounting and reporting requirements for irrigation districts is to achieve reporting uniformity between various local government entities. However, due to the unique characteristics of irrigation district benefits, assessments, budgets, expense allocations, and cost accounting, the SCO’s proposed uniform financial accounting and reporting procedures will lead to grouping of information which could mislead readers in understanding irrigation district finances and will require extensive additional work by irrigation district staff.

Put simply, the financial reporting requirements of sections 67-450E and 43-324 already meet the requirements and intent of House Bill 73. Additional reporting, as outlined in the Manual, is unnecessary given the fact that transparency is the objective.

II. Irrigation districts operate “as a business enterprise for the benefit of landowners within the district” and not the citizenry at large. Therefore, they are not within the scope of House Bill 73.

Based on our limited SCO discussions to date, there appears to be a fundamental misunderstanding of what irrigation districts are, how they are funded, and how they operate.

The primary goal of House Bill 73 is to daylight and track the expenditures of truly public monies such as state general fund appropriations, property tax revenue, and sales tax revenue. Irrigation districts do not receive or spend any of these funds. Instead, irrigation districts are funded by assessments levied against, and paid by, local landowners within district boundaries that directly benefit from district operations.

It is true that irrigation districts enjoy certain municipal-type powers, and that irrigation districts are considered governmental entities for certain limited purposes. However, Idaho Courts have long recognized that irrigation districts are organized and operated for the “private benefit” of their patrons. *Barker v. Wagner*, 96 Idaho 214, 217-218 (1974), quoting *Lewiston Orchards Irr. Dist. v. Gilmore*, 53 Idaho 377 (1933). Irrigation districts “conduct business for the private benefit of the owners of lands within [their] limits . . . the administration of [their] business [is] in a proprietary rather than a public capacity.” *Id*; see also, *Lewiston Orchards Irr. Dist.*, 53 Idaho at 382 (an irrigation district essentially exists and operates “as a business enterprise for the benefit of landowners within the district” and not the citizenry at large).

Legislative recognition of this local, private benefit (i.e. skin in the game) resulted in the 2019 amendments to Idaho Code 43-303. Those amendments clarified that only qualified electors of an irrigation district and the local county commissioners under section 43-325 are

entitled to inspect and review irrigation district records. This statutory amendment is consistent with the case law, because only district electors are assessed and benefitted by district operations—not the public at large. Consequently, the Legislature expressly determined that “[n]otwithstanding any other provision of law,” sections 43-303 and 43-325 are the “exclusive method” for accessing and inspecting irrigation district records.

Because irrigation districts are local, special purpose districts receiving no funding from state tax revenue-derived sources, they are not within the intent or scope of House Bill 73. Irrigation districts have their own, separate, reporting requirements under sections 43-324 and 67-450E. They are not the intended target of House Bill 73.

III. House Bill 73 does not require that irrigation districts report detailed employee information. Reporting detailed employee information will negatively impact irrigation district operations.

The IWUA and Idaho irrigation districts oppose the SCO’s proposed requirement that irrigation districts and other local government entities publicly report detailed employee salary and other employment information. This new requirement is described on pages 139-141 of the Manual. As proposed, irrigation districts would be required to report each employee’s name, job title, hire date, full-time or part-time status, months of service, pay rate and basis (annual salary, hourly, daily or per event).

House Bill 73 does not require reporting of individual employee salary and employment data. Nor does any other provision of Idaho law. Notwithstanding the lack of any legal authority, the SCO claims authority based on the reference to “any other information” in section 67-1076. Without any explanation, the Controller summarily concludes that requiring local government entities to report detailed employee information “meet[s] the legislative intent of House Bill 73 to provide transparency in Local Government.” This unbridled interpretation of the statute opens the door to requiring local government entities to report virtually any information the SCO desires. This is not consistent with the plain language of House Bill 73.

Individual employee salary and employment information is not the type of financial data the legislature requested or intended local government entities to report under House Bill 73. Further, such information is not necessary to accomplish the legislative intent behind House Bill 73. As such, the requirement should be removed from the draft Manual.

The express legislative intent of House Bill 73 is to “enable local government entities and the controller’s office to provide comparable data *by the use of uniform accounting, budgeting, and financial reporting procedures* for local government entities” (emphasis added). House Bill 73 created the Committee on Uniform Accounting and Transparency for Local Government Entities “to provide for *uniform and transparent financial data of local governmental entities to better inform lawmakers, decision-makers, and citizens*” (emphasis added). It assigned to the Committee “the collaborative task of developing, approving, monitoring, and revising as needed the uniform accounting, budgeting, financial reporting system, and manual for local governmental entities.”

To accomplish these objectives, House Bill 73 requires reporting of general, *institutional* financial information. Nothing in House Bill 73 implies an intent to publicly report detailed individual employee information.

As required by House Bill 73, the Manual must define and classify the various *funds, accounts, grants, and other financial structures by account title* as necessary for the uniform reporting of accounting, budgeting, and financial reporting information, including estimated and actual revenues and expenditures. I.C. § 67-1075(2). The state controller must create a public website for the reporting of local governmental entities' *accounting, budgeting, and financial data* to provide leaders, decision-makers, and citizens easy access to search, view, and compare data across the state. I.C. § 67-1075(2).

Section 67-1076 requires local government entities to submit administrative and financial information:

(a) Administrative information:

- (i) The terms of membership and appointing authority for the governing board member of the local governmental entity;
- (ii) The official name, mailing address, and electronic mailing address of the entity;
- (iii) The fiscal year of the entity; and
- (iv) Except for cities and counties, the section of Idaho Code under which the entity was established, the date of establishment, the establishing entity, and the statute or statutes under which the entity operates, if different from the statute or statutes under which the entity was established.

(b) Financial information:

- (i) The most recent adopted budget of the entity;
- (ii) An unaudited comparison of the budget to actual revenues and expenditures for the most recently completed fiscal year;
- (iii) The date of its last independent audit; and
- (iv) *Any other information required by the uniform accounting manual for local governmental entities.*

Section 67-1076 does not expressly require reporting of any information about the individual employees of local government entities. Rather, it only requires information about governing boards and institutional-level information: budget, comparison of the budget to actual revenues and expenditures, and the date of the last audit. This information is already reported in irrigation districts' annual audits. *See above.*

Absent any express authorization to require reporting of individual employee information, the SCO points to the “any other information” catchall phrase in the statute to justify the reporting requirement. Yet, this provision only applies to an entity’s “financial information” – not an individual’s employment information.

Moreover, the SCO’s rationale for including this reporting requirement indicates no consideration of its potential impacts on irrigation districts and their employees. The social norm

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of not prying into an individual's income is no less applicable to irrigation district employees. Publishing such information can result in unnecessary conflicts among district employees, managers and boards. Importantly, the legislature has recognized and protected the sensitivity of employee information in enacting exceptions to the Idaho Public Records Act (I.C. § 74-106) and the Idaho Open Meeting Law (I.C. § 74-206).

Furthermore, mandating the reporting of detailed employee information, including salary, will lead to higher turnover among local government entities, drive up wages and increase the overall cost of operations – leading to higher costs for district patrons. Finally, in small communities, where it is already a challenge to find employees, this mandate will only make staffing challenges more difficult as it will turn away employees who don't want their personal business on the Transparent Idaho webpage.

IV. Conclusion

Based on the above, IWUA requests that the Committee:

1. Confirm that existing reporting requirements for irrigation districts, under sections 67-450E and 43-324, are consistent with the intent of House Bill 73.
2. If the committee determines that existing irrigation district reporting requirements are not sufficient under House Bill 73, allow irrigation districts to continue historical reporting practices for 2024 and direct the SCO to work with irrigation districts in earnest to develop reporting processes that will work for irrigation districts for 2025 and beyond.
3. Remove the detailed employee reporting requirements for local government entities, like irrigation districts.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Arrington', with a long horizontal line extending to the right.

Paul L. Arrington
Executive Director / General Counsel