

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 554

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO ABATEMENT DISTRICTS; AMENDING SECTION 39-2804, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING THE POWERS AND DUTIES OF ABATEMENT
3 DISTRICTS; AMENDING SECTION 39-2812, IDAHO CODE, TO ESTABLISH PROVI-
4 SIONS REGARDING AERIAL ABATEMENT AND TO MAKE TECHNICAL CORRECTIONS;
5 AMENDING CHAPTER 28, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW
6 SECTION 39-2814, IDAHO CODE, TO ESTABLISH PROVISIONS ALLOWING INDI-
7 VIDUAL LANDOWNERS TO OPT OUT OF ABATEMENT ACTIVITIES; AMENDING SECTION
8 39-2814, IDAHO CODE, TO REDESIGNATE THE SECTION; AND DECLARING AN EMER-
9 GENCY.
10

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

12 SECTION 1. That Section 39-2804, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 39-2804. POWERS AND DUTIES OF ABATEMENT DISTRICTS. (1) The abatement
15 district board of trustees is authorized:

16 ~~(1) (a)~~ To appoint a director to direct the activities of the district,
17 in accordance with training and experience necessary to fulfill the du-
18 ties of the position-;

19 ~~(2) (b)~~ To appoint such other persons as necessary, determine their du-
20 ties and compensation, and make rules and regulations respecting them-;

21 ~~(3)~~ To take all necessary and proper steps for the control of mosquitoes
22 and other vermin of public health and welfare importance in the district and
23 for these purposes shall have the right to enter upon any and all lands.

24 ~~(4) (c)~~ To sue and be sued-;

25 ~~(5) (d)~~ To contract to purchase, hold, dispose of, and acquire by gift
26 real and personal property in the name of the district. ~~To exercise the~~
27 ~~right of eminent domain and for these purposes to condemn any necessary~~
28 ~~land or rights-of-way in accordance with general law-;~~

29 ~~(6) (e)~~ To abate as nuisance breeding places of mosquitoes or other
30 vermin of public health and welfare importance within the district or
31 within migrating distance of the district by use of chemicals or per-
32 manent control measures and in this connection have the right to enter
33 upon any and all lands-;

34 ~~(7) (f)~~ To work with the lateral ditch water users associations, ir-
35 rigation, drainage and flood control districts and other cooperating
36 organizations. The board of trustees of the abatement district may
37 supplement funds of cooperating organizations for improvement, repair,
38 maintenance, and cleaning of ditches ~~which that~~ will temporarily or
39 permanently eliminate mosquito breeding or for other activities ~~which~~
40 ~~that will benefit the district-;~~

41 ~~(8) (g)~~ To file annually with the board of county commissioners for
42 their approval an estimate of funds required for the next year, a plan

1 of the work to be done, and methods to be employed. No procedure, work,
 2 or contract for any year of operation shall be done or entered ~~upon~~ into
 3 until plans and budget have been jointly approved by the board of county
 4 commissioners-;

5 ~~(9)~~ (h) To file, annually or by February 1 of the succeeding year, with
 6 the board of county commissioners a report setting forth the moneys ex-
 7 pended during the previous year, methods employed, and work accomplish-
 8 ments-; and

9 ~~(10)~~ To ~~approve a written mosquito or other vermin management plan~~
 10 ~~submitted by a landowner requesting that their property be excluded from~~
 11 ~~treatment by the abatement district. Such plan must be specific to the~~
 12 ~~landowner's property, provide adequate control measures, and be implemented~~
 13 ~~by the landowner. The abatement district shall refrain from treatment of~~
 14 ~~property included in the approved plan, but shall maintain monitoring and~~
 15 ~~surveillance activities. If the landowner fails to follow the plan or does~~
 16 ~~not provide adequate control measures, the abatement district may abate the~~
 17 ~~mosquitoes or other vermin.~~

18 ~~(11)~~ (i) To cooperate with other entities. At its discretion, a dis-
 19 trict may cooperate with and enter into annual agreements or contract
 20 with governmental agencies of this state, other states, agencies of the
 21 federal government, private associations, and private individuals in
 22 order to carry out the purposes and provisions of this chapter.

23 (2) The abatement district board of trustees shall obtain written
 24 permission annually from a landowner before entering or flying above the
 25 landowner's property to conduct abatement-related activities, including
 26 treating the property aerially or by ground and monitoring and surveilling
 27 the property, regardless of whether an emergency has been declared pursuant
 28 to section 39-2812, Idaho Code.

29 SECTION 2. That Section 39-2812, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 39-2812. PESTS -- PUBLIC HEALTH AND WELFARE -- DISASTERS -- EMERGEN-
 32 CIES -- INTERIM ABATEMENT DISTRICTS. (1) To provide for the timely response
 33 to an elevated or anticipated pest population that may constitute a risk
 34 to public health and welfare, the board of county commissioners of each
 35 county of this state, in collaboration with duly recognized local and state
 36 officials, and after a public hearing is called for such purpose as a spe-
 37 cial meeting pursuant to the provisions of section 74-204(2), Idaho Code,
 38 is hereby granted full power and authority to declare such pests as public
 39 health and welfare pests, and to initiate activities to hinder in the poten-
 40 tial spread of disease, or adverse economic impact, caused by these pests by
 41 taking appropriate steps to intervene in the natural biological cycle of the
 42 pests or disease.

43 (2) Boards of county commissioners are further authorized and empow-
 44 ered, in the event of a disaster or emergency declared by such boards, to
 45 make direct appropriations for the purpose of controlling public health and
 46 welfare pests as declared pursuant to this section. All moneys raised by
 47 direct appropriation shall be placed in a county public health and welfare
 48 pest fund, which shall be used exclusively for the control of pests of public
 49 health and welfare significance and for payment of all necessary expenses

1 incurred in such control program. In addition, the county may impose an annual property tax assessment pursuant to section 39-2805, Idaho Code, and
 2 in accordance with the provisions of sections 63-802 and 63-803, Idaho Code,
 3 for the term of the disaster or emergency or until all expenses incurred during
 4 the disaster or emergency have been recovered. Such fund shall be a revolving
 5 fund and all moneys returned to the fund under any of the provisions
 6 of this chapter shall continue to be available for the operation of the control
 7 program.
 8

9 (3) The disaster or emergency declaration of a pest of public health
 10 and welfare significance within a county and subsequent pest management
 11 activity shall, except as provided herein, place the whole county into an
 12 interim abatement district for administrative purposes for no more than two
 13 (2) years. The transition of an interim abatement district into a formally
 14 defined abatement district, shall be brought to a vote of the electorate
 15 within twenty-four (24) months of the declaration, subject to the notification
 16 and establishment requirements provided in this chapter, and conducted
 17 during a general election held on the first Tuesday following the first Monday
 18 in November of even-numbered years, and if passed, the district shall be
 19 recognized and the provisions of this chapter shall be implemented. If the
 20 measure fails, the balance of revolving fund moneys shall be distributed as
 21 required by state law. In the event the disaster or emergency exceeds the
 22 county's capacity or resources, provisions should be made to request state
 23 or federal disaster or emergency funds to address the evolving situation.
 24 If the interim abatement district provides the same service as an existing
 25 abatement district, the interim abatement district shall exclude any area
 26 within an existing abatement district.

27 (4) Aerial abatement methods shall be used within an abatement district
 28 only when the respective board of county commissioners has declared an emergency.
 29 In such cases, aerial abatement methods shall be used only to treat
 30 property within the abatement district that has not been exempted pursuant
 31 to section 39-2814, Idaho Code.

32 SECTION 3. That Chapter 28, Title 39, Idaho Code, be, and the same is
 33 hereby amended by the addition thereto of a NEW SECTION, to be known and designated
 34 as Section 39-2814, Idaho Code, and to read as follows:

35 39-2814. PARTICIPATION IN ABATEMENT DISTRICTS BY PROPERTY OWNERS. (1)
 36 An individual who owns property within an abatement district may submit a
 37 written notice that includes the physical address of the property to the
 38 board of county commissioners for the county in which the property is located
 39 requesting that the property be exempted from any and all abatement-related
 40 activities. The notice shall remain in effect until the owner of the property
 41 rescinds the notice in writing.

42 (2) Upon receiving such written request, the board of county commissioners
 43 shall notify every abatement district within the state of Idaho that
 44 the property is exempted from abatement-related activities, and the districts
 45 and county shall strictly adhere to the requested exemption.

46 (3) (a) In the event that abatement related-activities occurs on, over,
 47 or above an exempted property, the owner may:

48 (i) Submit evidence of the violation to the respective board of
 49 county commissioners; and

- 1 (ii) Initiate a civil action against the respective board of
2 county commissioners and abatement district.
3 (b) If a court determines a violation occurred:
4 (i) The board of county commissioners shall be subject to a five
5 thousand dollar (\$5,000) fine for each violation, which shall be
6 paid to the aggrieved owner; and
7 (ii) The court shall award reasonable attorney's fees and costs to
8 the prevailing party.

9 SECTION 4. That Section 39-2814, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 ~~39-2814~~ 39-2815. SEVERABILITY. The provisions of this chapter are
12 hereby declared to be severable and if any provision of this chapter or the
13 application of such provision to any person or circumstance is declared in-
14 valid for any reason, such declaration shall not affect the validity of the
15 remaining portions of this chapter.

16 SECTION 5. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after its
18 passage and approval.