

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 747

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO ABATEMENT DISTRICTS; AMENDING SECTION 39-2804, IDAHO CODE, TO  
2 REVISE PROVISIONS REGARDING THE POWERS AND DUTIES OF ABATEMENT DIS-  
3 TRICTS; AMENDING SECTION 39-2812, IDAHO CODE, TO ESTABLISH PROVISIONS  
4 REGARDING AERIAL ABATEMENT AND TO MAKE TECHNICAL CORRECTIONS; AMEND-  
5 ING CHAPTER 28, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
6 39-2814, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING PARTICIPATION  
7 IN ABATEMENT DISTRICTS BY PROPERTY OWNERS; AMENDING SECTION 39-2814,  
8 IDAHO CODE, TO REDESIGNATE THE SECTION; AND DECLARING AN EMERGENCY.  
9

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

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

13 39-2804. POWERS AND DUTIES OF ABATEMENT DISTRICTS. The abatement dis-  
14 trict board of trustees is authorized:

15 (1) To appoint a director to direct the activities of the district, in  
16 accordance with training and experience necessary to fulfill the duties of  
17 the position;

18 (2) To appoint such other persons as necessary, determine their duties  
19 and compensation, and make rules and regulations respecting them;

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

23 (4) To sue and be sued;

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

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

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

40 (8) To file annually with the board of county commissioners for their  
41 approval an estimate of funds required for the next year, a plan of the work  
42 to be done, and methods to be employed. No procedure, work, or contract for

1 any year of operation shall be done or entered ~~upon~~ into until plans and bud-  
 2 get have been jointly approved by the board of county commissioners-;

3 (9) To file, annually or by February 1 of the succeeding year, with the  
 4 board of county commissioners a report setting forth the moneys expended  
 5 during the previous year, methods employed, and work accomplishments-; and

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

15 ~~(11)~~ (10) To cooperate with other entities. At its discretion, a dis-  
 16 trict may cooperate with and enter into annual agreements or contract with  
 17 governmental agencies of this state, other states, agencies of the federal  
 18 government, private associations, and private individuals in order to carry  
 19 out the purposes and provisions of this chapter.

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

22 39-2812. PESTS -- PUBLIC HEALTH AND WELFARE -- DISASTERS -- EMERGEN-  
 23 CIES -- INTERIM ABATEMENT DISTRICTS. (1) To provide for the timely response  
 24 to an elevated or anticipated pest population that may constitute a risk  
 25 to public health and welfare, the board of county commissioners of each  
 26 county of this state, in collaboration with duly recognized local and state  
 27 officials, and after a public hearing is called for such purpose as a spe-  
 28 cial meeting pursuant to the provisions of section 74-204(2), Idaho Code,  
 29 is hereby granted full power and authority to declare such pests as public  
 30 health and welfare pests, and to initiate activities to hinder in the poten-  
 31 tial spread of disease, or adverse economic impact, caused by these pests by  
 32 taking appropriate steps to intervene in the natural biological cycle of the  
 33 pests or disease.

34 (2) Boards of county commissioners are further authorized and empow-  
 35 ered, in the event of a disaster or emergency declared by such boards, to  
 36 make direct appropriations for the purpose of controlling public health and  
 37 welfare pests as declared pursuant to this section. All moneys raised by  
 38 direct appropriation shall be placed in a county public health and welfare  
 39 pest fund, which shall be used exclusively for the control of pests of public  
 40 health and welfare significance and for payment of all necessary expenses  
 41 incurred in such control program. In addition, the county may impose an an-  
 42 nual property tax assessment pursuant to section 39-2805, Idaho Code, and  
 43 in accordance with the provisions of sections 63-802 and 63-803, Idaho Code,  
 44 for the term of the disaster or emergency or until all expenses incurred dur-  
 45 ing the disaster or emergency have been recovered. Such fund shall be a re-  
 46 volving fund and all moneys returned to the fund under any of the provisions  
 47 of this chapter shall continue to be available for the operation of the con-  
 48 trol program.

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

19 (4) Aerial abatement methods shall be used to deploy adulticides within  
 20 an abatement district only when the respective board of county commissioners  
 21 has declared a health emergency. In such cases, aerial adulticide abatement  
 22 methods may be used only to treat property within the abatement district that  
 23 has not been exempted pursuant to section 39-2814, Idaho Code.

24 (a) The restriction provided by this subsection shall not apply to  
 25 aerial abatement methods deploying a larvicide on properties that have  
 26 not been excluded.

27 (b) For the purposes of this subsection, "aerial abatement methods"  
 28 means abatement using planes, drones, or similar apparatuses.

29 (5) At least ten (10) days prior to the start of any abatement season,  
 30 the abatement district shall publish notice.

31 (a) Such notice shall:

32 (i) Describe the abatement activity, location, and methods to be  
 33 used;

34 (ii) Disclose all possible products authorized for use during the  
 35 abatement season; and

36 (iii) Provide information on how to opt out of abatement-related  
 37 activities.

38 (b) The notice shall be:

39 (i) Published on the district's and the county's website, if such  
 40 entities have websites;

41 (ii) Published monthly in a newspaper of general circulation  
 42 within the district; and

43 (iii) Circulated regularly online and by other means that the  
 44 district determines likely to provide affected landowners notice  
 45 throughout the abatement season.

46 SECTION 3. That Chapter 28, Title 39, Idaho Code, be, and the same is  
 47 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 48 ignated as Section 39-2814, Idaho Code, and to read as follows:

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

8           (2) (a) In the event that a government agent knowingly allows abatement-  
9 related activities to occur on, over, or above an exempted property, the  
10 owner may:

11           (i) Submit evidence of the violation to the respective board of  
12 county commissioners; and

13           (ii) Initiate a civil action against the respective board of  
14 county commissioners and abatement district.

15           (b) If a court determines that a violation of this chapter occurred:

16           (i) The board of county commissioners shall be subject to a one  
17 thousand dollar (\$1,000) fine for each violation, which shall be  
18 paid to the aggrieved owner; and

19           (ii) The court shall award reasonable attorney's fees and costs to  
20 the prevailing party.

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

23           ~~39-2814~~ 39-2815. SEVERABILITY. The provisions of this chapter are  
24 hereby declared to be severable and if any provision of this chapter or the  
25 application of such provision to any person or circumstance is declared in-  
26 valid for any reason, such declaration shall not affect the validity of the  
27 remaining portions of this chapter.

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