

TITLE 42
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 18
DIRECTOR OF DEPARTMENT OF WATER RESOURCES

42-1801. APPOINTMENT, OATH AND BOND OF DIRECTOR OF DEPARTMENT. The director of the department of water resources shall be appointed by the governor for a term of four (4) years commencing as of the first Monday of January, 1975, and thereafter for like terms of four (4) years commencing on the first Monday of January of each such terms of office, and until his successor shall be appointed and qualified in the manner as herein provided, and shall, before entering upon the discharge of the duties of his office, take and subscribe an oath to faithfully discharge the duties of his office. The director of the department of water resources shall also be bonded to the state of Idaho in the time, form and manner prescribed by chapter 8, title 59, Idaho Code. If the office of director shall be vacated by the incumbent by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment; and the appointee shall hold his office for the balance of the unexpired term of four (4) years and until his successor is appointed and qualified.

[42-1801, added 1943, ch. 58, sec. 6, p. 120; am. 1970, ch. 12, sec. 1, p. 21; am. 1971, ch. 136, sec. 31, p. 522; am. 1974, ch. 20, sec. 27, p. 533.]

42-1801a. NAME OF DEPARTMENT CHANGED. Wherever the words department of reclamation or department of water administration appear in the Idaho Code they shall mean the department of water resources, and wherever the words state reclamation engineer or deputy state reclamation engineer appear in the Idaho Code they shall mean the director of the department of water resources or the deputy director of the department of water resources, respectively.

[42-1801a, added 1970, ch. 12, sec. 2, p. 21; am. 1974, ch. 20, sec. 28, p. 533.]

42-1802. POLITICAL ACTIVITY PROHIBITED. The director of the department of water resources shall not, during his incumbency, take any active part in political party management or in political campaigns, nor shall he use his official authority or influence for the purpose of interfering with an election or affecting the results thereof, or for the purpose of coercing the political action of any person or body.

[42-1802, added 1943, ch. 58, sec. 7, p. 120; am. 1974, ch. 20, sec. 29, p. 533.]

42-1803. REMOVAL. The governor may remove the director of the department of water resources for inefficiency, neglect of duty, or misconduct in office, delivering to him a copy of the charges and affording him an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than ten (10) days' notice; such hearing to be held publicly in the office of the governor at the capitol.

If the director shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against

such director, and his findings thereon, together with a complete record of the proceedings.

[42-1803, added 1943, ch. 58, sec. 8, p. 120; am. 1974, ch. 20, sec. 30, p. 533.]

42-1804. SUCCESSOR TO COMMISSIONER OF RECLAMATION -- STATE RECLAMATION ENGINEER -- DIRECTOR OF DEPARTMENT OF WATER ADMINISTRATION. Whenever rights, powers and duties have heretofore been vested in, or exercised by, the commissioner of reclamation, the state reclamation engineer or the director of the department of water administration, all such rights, powers and duties are hereby transferred to and are vested in and shall be exercised by the director of the department of water resources, and every act done in the exercise of such rights, powers and duties shall have the same legal effect as if done by the former commissioner of reclamation, state reclamation engineer, or director of the department of water administration, or the department of reclamation or the department of water administration, or any deputy inspector or subordinate officer thereof, and the said director of the department of water resources shall be subject to the same obligations and duties and shall have the same rights arising from the exercise of such rights, powers and duties as if such rights, powers and duties were exercised by the said commissioner of reclamation, state reclamation engineer, or director of the department of water administration, or department of reclamation or department of water administration, deputy or subordinate officer thereof designated in the respective laws which are to be administered by the said director of the department of water resources and he shall be subject to the same penalty or penalties, civil or criminal, for failure to perform any such obligation or duty or for doing a prohibited act as if such obligation or duty or such act were prohibited in the exercise of such rights, powers or duties by the commissioner of reclamation, state reclamation engineer, or director of the department of water administration designated in the respective laws which are to be administered by the said director of the department of water resources, and the office of commissioner of reclamation, the office of state reclamation engineer, the office of director of the department of water administration each is hereby abolished and the said director of the department of water resources is hereby declared to be the successor of the said commissioner, the said engineer, or the said director of the department of water administration as to all rights, powers and duties and as to all proceedings now pending in the said department of reclamation, or department of water administration or in an appeal therefrom or in any action pending in any court of competent jurisdiction in which the said commissioner of reclamation, the state reclamation engineer, or the director of the department of water administration is a party in any such action or proceeding. All books, records, papers, documents, property, real and personal, unexpended appropriations and pending business in any way pertaining to the rights, powers and duties hereby transferred to and vested in the said director of the department of water resources shall be delivered and transferred to the said director of the department of water resources.

This act shall not affect any act done, ratified or confirmed or any right accrued or established or any action or proceeding had or commenced in a civil or criminal cause before this act takes effect but such actions or proceedings may be prosecuted and continued by the said department of water resources and the director of the department of water resources under the provisions of this act.

[42-1804, added 1943, ch. 58, sec. 9, p. 120; am. 1974, ch. 20, sec. 31, p. 533.]

42-1805. ADDITIONAL DUTIES. In addition to other duties prescribed by law, the director of the department of water resources shall have the following powers and duties:

(1) To represent the state in all matters pertaining to interstate and international water rights affecting Idaho water resources; and to cooperate with all agencies, now existing or hereafter to be formed, within the state or within other jurisdictions, in matters affecting the development of the water resources of this state.

(2) To prepare a present and continuing inventory of the water resources of this state, ascertain means and methods of conserving and augmenting these and determine as accurately as possible the most effective means by which these water resources may be applied for the benefit of the people of this state.

(3) To conduct surveys, tests, investigations, research, examinations, studies, and estimates of cost relating to availability of unappropriated water, effective use of existing supply, conservation, storage, distribution and use of water.

(4) To prepare and compile information and data obtained and to make the same available to interested individuals or agencies.

(5) To cooperate with and coordinate activities with the director of the department of environmental quality as such activities relate to the functions of either or both departments concerning water quality. Such cooperation and coordination shall specifically require that:

(a) The director meet at least quarterly with the director of the department of environmental quality and his staff to discuss water quality programs. A copy of the minutes of such meeting shall be transmitted to the governor.

(b) The director transmit to the director of the department of environmental quality reports and information prepared by him pertaining to water quality programs, and proposed rules pertaining to water quality programs.

(c) The director shall make available to the director of the department of environmental quality and the director of the department of environmental quality shall make available to the director all notices of hearings relating to the promulgation of rules relating to water quality, waste discharge permits, and stream channel alteration, as such directly affect water quality, and notices of any other hearings and meetings which relate to water quality.

(6) To perform administrative duties and such other functions as the board may from time to time assign to the director to enable the board to carry out its powers and duties.

(7) After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of minimum flow provisions of the state water plan.

(8) To promulgate, adopt, modify, repeal and enforce rules implementing or effectuating the powers and duties of the department.

(9) To seek a preliminary or permanent injunction, or both, or a temporary restraining order restraining any person from violating or attempting to violate (a) those provisions of law relating to all aspects of the appro-

priation of water, distribution of water, headgates and measuring devices; or (b) the administrative or judicial orders entered in accordance with the provisions of law.

(10) To develop, coordinate and provide, through contract or by other means, for weather modification projects involving cloud seeding that are designed to increase the water supplies of the state by enhancing natural precipitation and which conform to state water planning objectives. To accomplish these purposes the director is authorized to accept and use funds acquired through legislative appropriation or by gift, grant, contribution or funding received from any private or public individual or entity. All funds accepted under this provision shall be transmitted to the state treasurer for deposit in the water administration fund and shall be reserved and made available until expended as ordered by the director for weather modification purposes determined by the director to be beneficial.

(11) To develop and implement a plan for data gathering to determine any effect of the weather modification efforts in which the department is involved.

[42-1805, added 1943, ch. 58, sec. 10, p. 120; am. 1969, ch. 469, sec. 4, p. 1352; am. 1974, ch. 20, sec. 32, p. 533; am. 1985, ch. 15, sec. 1, p. 21; am. 1986, ch. 313, sec. 10, p. 775; am. 1993, ch. 32, sec. 1, p. 106; am. 2001, ch. 103, sec. 83, p. 324.]