

TITLE 42  
IRRIGATION AND DRAINAGE -- WATER RIGHTS AND RECLAMATION

CHAPTER 7  
HEADGATES AND MEASURING DEVICES

42-701. INSTALLATION AND MAINTENANCE OF CONTROLLING WORKS AND MEASURING DEVICES BY WATER APPROPRIATORS -- PROCEDURE UPON FAILURE TO INSTALL AND MAINTAIN -- MEASURING AND REPORTING OF DIVERSIONS -- PENALTY FOR FAILURE TO COMPLY -- ENFORCEMENT PROCEDURE -- REPORT FILING FEE. (1) The appropriators or users of any public waters of the state of Idaho shall maintain to the satisfaction of the director of the department of water resources suitable headgates and controlling works at the point where the water is diverted. Each device shall be of such construction that it can be locked and kept closed by the watermaster or other officer in charge, and shall also be of such construction as to regulate the flow of water at the diversion point. Each such appropriator shall construct and maintain, when required by the director of the department of water resources, a rating flume or other measuring device at such point as is most practical in such canal, ditch, wellhead or pipeline for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said canal, ditch, wellhead or pipeline from the stream, well or other source of public water. Plans for such headgates, rating flumes or other measuring devices shall be approved by the department of water resources.

(2) If an appropriator determines that installation and maintenance of a measuring device required by the director would be burdensome for his diversion, the appropriator may, upon approval of the director, execute an agreement with the director and submit to the director such information and technical data concerning the diversion and pumping facilities as the director determines necessary to establish the relationship of power usage to water withdrawal by any pump used to divert public water.

(3) Any appropriator or user of the public waters of the state of Idaho that neglects or refuses to construct or maintain such headgates, controlling works, or measuring devices, or has not executed an agreement in lieu of a measuring device as provided in subsection (2) of this section, upon receiving ten (10) days' notice from the director of the department of water resources within which to begin and diligently pursue to completion the construction or installation of the required device or devices or to begin and diligently pursue to completion a remedy to such defects as exist in accordance with said notice, then the director of the department of water resources may order the duly qualified and acting watermaster of the water district to shut off and refuse to deliver at the point of diversion, the water owned by such appropriator or user until the user does construct and maintain such headgates, controlling works or measuring devices or remedy the defects which exist or the director may take action pursuant to section 42-1701B, Idaho Code, to enforce the requirement to construct, install or maintain such devices.

(4) The appropriators or users of the public waters of the state of Idaho shall be given a reasonable time within which to complete construction of such headgates, controlling works or measuring devices, depending upon the size and extent thereof, when due diligence has been used in the prosecution of such work.

(5) All appropriators of the public waters of the state of Idaho who are given thirty (30) days' written notice by the director prior to the beginning of the irrigation season but no later than March 15 of any year, shall measure their water diversions and report said diversions annually thereafter on a form approved by the director of the department of water resources. Such report shall include: a legal description of the point of diversion, the number assigned to each water right diverting from the public waters of the state, the maximum authorized rate of diversion, the maximum rate at which diversions have been made during the reporting period, the total volume diverted during the reporting period, and a description of the physical changes to the diversion works that have been made during the reporting period. The appropriator shall furnish each year the depth to water in any well prior to commencement of pumping, the depth to water during the pumping period, and the pressure in the pipe distribution system during diversion if the well is not free flowing. When the director of the department of water resources determines that any person is in substantial violation of any provision of this section or any rule, permit, condition of approval or order issued or promulgated pursuant to this section, the director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of section 42-1701B, Idaho Code. Subsections (5) and (6) of this section shall not apply to:

(a) any appropriator or water user with respect to a water right included in an active water district created pursuant to chapter 6, title 42, Idaho Code, the annual report of which meets the reporting requirements of section 42-708, Idaho Code;

(b) any irrigation district or ground water district having shown to the satisfaction of the director that they are currently making and recording sufficient measurements of their diversions with measuring methods acceptable to the director and upon their agreement to provide an annual report of their diversions to the director in substantially the same form as required in section 42-708, Idaho Code; and

(c) any water right included in an active water measurement district created pursuant to this chapter.

(6) The director of the department of water resources shall collect a report processing fee of twenty-five dollars (\$25.00) per diversion required to be reported, including those diversions covered by an agreement in lieu of a measuring device as provided in subsection (2) of this section. Such fee shall be submitted with the annual report of diversions and well data. All such fees received by the department shall be deposited in the water administration account created pursuant to section 42-238a, Idaho Code, for use by the department to collect, analyze and report water use information and to regulate water withdrawal and use.

(7) All domestic uses, as defined in section 42-111, Idaho Code, and all stock watering uses, as defined in section 42-1401A, Idaho Code, shall be exempt from the measuring device installation and maintenance, measuring and reporting requirements of this section.

[ (42-701) 1899, p. 223, sec. 31; reen. R.C., sec. 3282; am. 1913, ch. 68, p. 305; am. 1915, ch. 34, sec. 16, p. 111; am. 1917, ch. 53, part of sec. 1, p. 122; reen. C.L., sec. 3282; C.S., sec. 5616; am. 1927, ch. 69, sec. 2, p. 85; I.C.A., sec. 41-601; am. 1994, ch. 430, sec. 1, p. 1388; am. 1995, ch. 291, sec. 1, p. 1014; am. 1996, ch. 298, sec. 2, p. 978; am. 1997, ch. 374, sec. 1, p. 1193; am. 1998, ch. 173, sec. 6, p. 604.]

42-702. MEASURING DEVICES ABOVE RESERVOIRS. Any person, firm or corporation using the channel of any stream or streams or any tributary of such stream or streams in this state as an impounding reservoir shall place therein at a point above and as near as practicable to the backwater of such reservoir such system or device as the department of water resources may require for measuring the flow of water at such point and in accordance with plans and specifications which shall be furnished by the department.

[(42-702) 1917, ch. 53, part of sec. 3, p. 124; reen. C.L., sec. 3282d; C.S., sec. 5620; I.C.A., sec. 41-602.]

42-703. MEASURING DEVICES ALONG STREAMS. It shall also be the duty of those using water in any district to place in the streams from which said water is diverted and at such places and intervals on said streams as the department of water resources may require suitable systems or devices for measuring the flow of water.

[(42-703) 1917, ch. 53, part of sec. 3, p. 124; reen. C.L., sec. 3282e; C.S., sec. 5621; I.C.A., sec. 41-603.]

42-705. DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES AUTHORIZED TO CREATE AND SUPERVISE WATER MEASUREMENT DISTRICTS. The director of the department of water resources is authorized to create water measurement districts to carry out the water measuring requirements of this chapter and shall have direction and control of the measurement of water existing therein or diverted from all public water sources, including ground water sources, within a water measurement district. Measurement of water within water measurement districts created pursuant to section 42-706, Idaho Code, shall be accomplished by district hydrographers as provided in this chapter and supervised by the director. Administration of water rights within water measurement districts shall be pursuant to the authority of the director of the department of water resources found elsewhere in title 42, Idaho Code, except such curtailment of diversion as is specifically authorized in section 42-714, Idaho Code.

[42-705, added 1995, ch. 291, sec. 3, p. 1016.]

42-706. CREATION OF WATER MEASUREMENT DISTRICTS. (1) The director of the department of water resources is authorized to divide the state into water measurement districts in such manner that each public water source or sources or part thereof shall constitute a water measurement district; provided, that any appropriation or use included in a water district created pursuant to chapter 6, title 42, Idaho Code, shall not be included in a water measurement district. Appropriators or users of water for hydropower, instream flow, aquaculture purposes and irrigation districts duly organized under title 43, Idaho Code, holding water rights for distribution to landowners within the irrigation district, and ground water districts duly organized under chapter 52, title 42, Idaho Code, may petition to be excluded from the water measurement district at the time the water measurement district is created or modified, or at a later time, upon a showing to the satisfaction of the director that they are currently making and recording sufficient measurements of their diversions with measuring methods acceptable to the director and upon their agreement to provide an annual report of their diversions to the director in substantially the same form as required in section 42-708, Idaho Code. The director may create, revise the boundaries of, or abolish a water measurement district or combine

two (2) or more water measurement districts by entry of an order if such action is required in order to properly administer uses of the water resource. Copies of the order and notice of the first meeting of the water measurement district shall be sent by regular mail to all holders of rights to the waters affected by the order.

(2) Before entering an order creating, modifying, or abolishing a district, the director shall, by regular mail, send notice of the proposed action to each appropriator and water user in the district or proposed district. The notice shall describe the proposed action to be taken, the reasons therefor, the time and place of a hearing to be held concerning the proposed action, and provide a time period within which written comment on the action will be accepted. The hearing shall not be held sooner than ten (10) days after the mailing of the notice, and the written comment period shall not close sooner than ten (10) days after the hearing. Instead of mailing notice, the director may publish notice describing the proposed action, the time and place for the hearing, and the deadline for receiving written comment. The notice shall be published once a week for two (2) weeks in a newspaper or newspapers having general circulation within the district or proposed district, with the second publication appearing at least ten (10) days before the date set for the hearing. The hearing shall be held within the district or proposed district, or at some nearby location convenient to the affected appropriators or water users.

(3) Each water measurement district created hereunder shall be considered an instrumentality of the state of Idaho for the purpose of performing the essential governmental function of measurement of water within the district.

(4) Any order of the director issued pursuant to this section is subject to judicial review as provided in section 42-1701A, Idaho Code.

[42-706, added 1995, ch. 291, sec. 3, p. 1016; am. 1996, ch. 298, sec. 3, p. 980.]

42-707. DISTRICT MEETINGS -- DISTRICT HYDROGRAPHER AND ASSISTANTS -- ELECTION -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE -- DISTRICT TREASURER. (1) There shall be held, except as provided in subsection (2) of this section, on the first Monday in November in each year commencing at two o'clock P.M., a meeting of all persons owning or having the use of a water right in the waters of the stream or water supply comprising such district. For purposes of this chapter, a water right is a right which has been adjudicated by the court, is represented by valid permit or license issued by the department of water resources, or is based upon diversion and beneficial use and is recorded by a claim to water right on file with the department of water resources.

(2) Such meeting shall be held at some place within the water measurement district, or at some nearby location convenient to a majority of those entitled to vote thereat, which place shall be designated by the director of the department of water resources. The director shall provide notice of district meetings by publication of the time, date, location and purpose of the meeting in a newspaper or newspapers in general circulation in the district. Published notice shall be made once per week for two (2) consecutive weeks with the second notice appearing at least thirty (30) and not more than sixty (60) days prior to the meeting. The appropriators or water users of any water measurement district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the time of day when

the meeting shall commence or change the date for annual meetings in subsequent years to any day, except Saturday or Sunday, between the first Monday of November and the fourth Monday in February or change both the time and the date. At an annual meeting the appropriators or water users may adopt resolutions to assure or improve the measurement of the waters of the district within state law, and may provide that such resolutions shall continue from year to year.

(3) At the meeting of the appropriators or water users of a district there shall be elected a qualified district hydrographer for such water measurement district, who may be authorized to employ such other qualified regular assistants as the appropriators or water users shall deem necessary, and who, upon qualification and appointment by the director of the department of water resources, shall be responsible for measurement of water as in this chapter required within the water measurement district, and the appropriators or water users shall, prior to the election of such district hydrographer and approval of the employment of assistants, fix the compensation to be paid them during the time actually engaged in the performance of their duties. Qualifications for the district hydrographer and hydrographer's assistants include:

(a) Any combination of education or experience that demonstrates to the satisfaction of the director of the department of water resources the applicant's ability to conduct water measurements, to perform mathematical computations associated with water measurements, to keep complete and accurate records of water measurements, to be familiar with common terminology associated with water rights and water diversion and use, and to be able to read public land legal descriptions, translate written public land legal descriptions to map locations and find those locations on the land; and

(b) In addition, the district hydrographer's qualifications shall include any combination of education or experience that demonstrates to the satisfaction of the director of the department of water resources the applicant's ability to keep financial records as those records pertain to the expenses of the district, prepare a budget, and prepare assessments and billings for the appropriators or water users in the district.

(4) The appropriators or water users may, by resolution, authorize the district hydrographer to utilize, through a memorandum of understanding, water delivery organizations as hydrographer's assistants.

(5) Voting shall be by majority vote of the appropriators or water users present at the meeting unless one (1) or more appropriators or water users requests voting using the procedure which follows in this subsection. In such case the meeting chairman shall appoint a credentials committee to determine the number of votes each appropriator or water user present is authorized to cast. If requested, each person present, owning or having the use for the ensuing season of any water right in the stream or water supply comprising such water measurement district shall be entitled to a number of votes equal to the average annual dollar amount and any fraction thereof assessed for that person's qualifying water right for the previous five (5) years, or such lesser number of years as the right has been assessed. If a right has not previously been assessed, a person present, owning or having the use of the right for the ensuing season shall be entitled to a number of votes equal to the dollar amount and any fraction thereof which the right

would have been assessed had it existed and been used during the previous year.

(6) At such meeting the appropriators or water users shall choose a meeting chairman and meeting secretary and shall determine the manner and method of electing the district hydrographer. Within five (5) days after such meeting the meeting chairman and meeting secretary shall forward a certified copy of the minutes of such meeting to the department of water resources. The meeting chairman, or the meeting secretary if the meeting chairman from the immediately preceding annual meeting is not present, shall call the meeting to order and preside over the election of officers for the meeting.

(7) At such meeting the appropriators or water users may choose an advisory committee to be composed of members selected as may be determined at the meeting, which committee shall serve as advisors to the director and the district hydrographer in matters pertaining to the measurement of water within the district. The advisory committee may be authorized to carry out policies pertaining to the measurement of water within the district as set forth in resolutions duly adopted by the appropriators or water users at the annual meeting or at a special meeting.

(8) A corporation or a water delivery organization including, but not limited to a corporation, a water company, an irrigation district, an irrigation company or a canal company, shall be considered a person for the purpose of this section and shall cast its vote by someone to be designated by the corporation or water delivery organization.

(9) Should the meeting not be held, or should the district hydrographer not be elected or the district hydrographer's compensation not be fixed as above provided, then the director of the department of water resources is authorized to appoint a district hydrographer and fix the district hydrographer's compensation.

(10) The director of the department of water resources may remove any district hydrographer whenever such district hydrographer fails to perform the district hydrographer's duty, upon the director's own motion or upon complaint in that respect being made to the director in writing, by one (1) person owning or having the right to the use of a water right in such district provided, that upon investigation the director, after a hearing with the other appropriators or water users of the district, which shall be held in the district or at some location convenient to the appropriators or water users of the district, finds such charge to be true. If at any time a vacancy occurs, for whatever reason, in the position of district hydrographer, the director may appoint a successor for the unexpired term.

(11) Before entering upon the duties of the district hydrographer's office, the district hydrographer shall take and subscribe an oath before some officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the district hydrographer's office, as provided in section 42-709, Idaho Code, and shall file that oath with the department of water resources. Upon qualification and appointment by the director of the department of water resources, the actions taken by a district hydrographer in fulfillment of the duties of his office are covered by the state group surety bond as provided in sections 59-801 through 59-804, Idaho Code.

(12) The director shall call a special meeting of the appropriators or water users of a district upon receipt of a written request for such meeting from a majority of the members of the advisory committee for a district, a written request from appropriators or water users representing thirty per-

cent (30%) or more of the votes cast at the last regular annual meeting, a written request from the district hydrographer or on the director's own motion if the director determines a meeting is necessary to address matters that cannot be delayed until the next regular annual meeting. Notice of the time, place and purpose of the special meeting shall be given by the director in the manner provided in subsection (2) of this section or by regular mail to all holders of rights to the use of the waters of such district known to the director.

(13) The appropriators or water users may, by resolution, authorize the district hydrographer to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water measurement district as necessary for the proper measurement of water and shall provide that all such real and personal property shall remain in the custody of the district hydrographer and the district hydrographer's successor.

(14) At such meeting the appropriators or water users shall choose a district treasurer to be selected as may be determined at the meeting. The district treasurer shall assume the duties specified in section 42-715, Idaho Code. If a water measurement district treasurer is not selected at the annual meeting, and one is found to be necessary, the director of the department of water resources shall appoint a water measurement district treasurer.

[42-707, added 1995, ch. 291, sec. 3, p. 1017; am. 1998, ch. 44, sec. 1, p. 189.]

42-708. REPORTS OF DISTRICT HYDROGRAPHERS. All district hydrographers shall make and certify annually a report to the department of water resources, in a form and containing the information required by the director of the department of water resources, prior to the expiration of the district hydrographer's appointment for the current year. This report shall show the amount of water diverted at each diversion as measured or determined by the district hydrographer during the preceding period from November 1 through October 31, the total expense of the district and the apportionment of expenses among users and all debits and credits to be carried over to the following year. Such report shall also include records of stream flow, depth to ground water measurements, current names and addresses of appropriators or water users within the district and such other information as the district hydrographer collected or caused to be collected in the course of completing the duties of the district as instructed by the director. The director may also ask for other information deemed necessary in assuring proper administration of water within the district. The reports of district hydrographers to the department of water resources shall be filed and kept in the office of the department.

[42-708, added 1995, ch. 291, sec. 3, p. 1020.]

42-709. MEASUREMENT OF WATER. (1) It shall be the duty of the district hydrographer to:

(a) Measure the diversion from the water supply within the district by each appropriator or water user, or as the director of the department of water resources may otherwise require, and report the results as provided in section 42-708, Idaho Code.

(b) Take and record measurements from devices within the district required in sections 42-702 and 42-703, Idaho Code, and report the results as provided in section 42-708, Idaho Code.

(c) Monitor the ground water levels at ground water diversions, as required by the director of the department of water resources, before the pumping period begins and during the pumping period and report the results as provided in section 42-708, Idaho Code.

(d) Maintain current records of names and addresses of ground and surface appropriators or water users within the district and report the names and addresses as provided in section 42-708, Idaho Code.

(e) Maintain and report, as provided in section 42-708, Idaho Code, any change in the diversion facilities of any appropriator or water user in the district.

(f) Immediately report to the director of the department of water resources the diversion of any water appearing to be diverted without a water right or in violation of a water right.

(2) Data collected pursuant to the provisions of subsection (1) of this section during the period November 1 through December 31 shall be reported in the report required in section 42-708, Idaho Code, submitted the following year.

(3) The district hydrographer and his assistants may make reasonable entry upon any lands in the state for the purpose of making water measurements or in direct support of making water measurements.

(4) Appropriators or water users may be required by the director, pursuant to subsections (1) through (4) of section 42-701, Idaho Code, or section 42-702 or 42-703, Idaho Code, to install measuring devices to facilitate the measurement of water required in this section.

[42-709, added 1995, ch. 291, sec. 3, p. 1020.]

42-710. DISTRICT HYDROGRAPHER'S TERM OF SERVICE. A district hydrographer shall serve throughout the year from January 1 through December 31. The appropriators or water users of any water measurement district may, by resolution adopted at an annual meeting or at a special meeting properly called for that purpose, change the hydrographer's term of service to correspond with consecutive annual meeting dates or other annual dates as determined by the appropriators or water users. Assistants to the district hydrographer shall serve when necessary to make the water measurements required of the district or for such period of time as specified by resolution at any annual meeting of the appropriators or water users, provided, the period of time set by resolution is sufficient for the assistants to make all needed water measurements in the district.

[42-710, added 1995, ch. 291, sec. 3, p. 1021; am. 1998, ch. 44, sec. 2, p. 192.]

42-711. EXPENSES OF THE DISTRICT -- APPROVAL -- ALLOTMENT AND CHARGE AGAINST WATER USER. (1) District hydrographers shall prepare an accounting of all expenses of the district for the year. The accounting shall show:

(a) The time charged to the district by each employee of the district, the function performed by each employee for the time charged and the cost to the district for the time charged.

(b) The cost to the district for each activity of the advisory committee and for each activity a breakdown of the cost by per diem for committee members, travel costs, goods and services, and other costs with a description of the substance of the other costs.



(c) The cost to the district for travel and services, except as already included in paragraph (b) of this subsection, and a description of the activity performed for the district for each cost.

(d) The cost to the district for all real or personal property, equipment or facilities acquired, and a description and the cost of each.

The accounting shall be certified by the district hydrographer and the chairman of the advisory committee.

(2) The accounting shall be submitted to the director of the department of water resources for approval.

(3) The expenses of the district shall be a charge against the water users in the district. The expenses of the district shall be apportioned among all water users included within the district in the following manner:

(a) A charge of twenty-five dollars (\$25.00) per year for each diversion measured, provided the charge may be up to fifty dollars (\$50.00) per year if adopted by resolution approved by vote of the water users at a meeting conducted in accordance with section 42-707, Idaho Code; and

(b) A pro rata share of the total expense of the district, minus the total amount charged for all diversions in the district from paragraph (a) of this subsection determined by the fraction the recorded diversion rate for each water right is to the total recorded diversion rate of all water rights being measured by the district.

(c) Except, if the total charge for all diversions measured in the district from paragraph (a) of this subsection is more than the total expense of the district, the individual charge for each diversion will be the total expense of the district divided by the number of diversions in the district and the pro rata share from paragraph (b) of this subsection will be zero (0).

(4) An allocation of the district expenses among the various users shall be prepared by the district hydrographer and filed with the director of the department of water resources and with the water measurement district treasurer.

[42-711, added 1995, ch. 291, sec. 3, p. 1021; am. 2001, ch. 169, sec. 1, p. 581.]

42-712. PROPOSED BUDGET FOR SUCCEEDING YEAR. Each district hydrographer shall, at least thirty (30) days prior to the annual meeting of the appropriators or water users of the water measurement district, also prepare and file with the department of water resources a proposed budget for the succeeding year, together with an allocation of the amount of the budget to the respective appropriators or water users, using the actual amounts for the past year or years as the basis for the allocation, which proposed budget and allocation shall be submitted to the appropriators or water users for consideration and approval at the next annual district meeting.

[42-712, added 1995, ch. 291, sec. 3, p. 1022.]

42-713. BUDGET OF WATER MEASUREMENT DISTRICT -- ADOPTION AND CONTENTS -- DEBT OF APPROPRIATOR OR WATER USER. At any annual meeting the appropriators or water users must adopt a budget covering the estimated expenses of water measurements and data collection, as required in section 42-709, Idaho Code, of the district for the ensuing year, and by resolution determine that the budget shall be collected, and the compensation of the district hydrographer and the district hydrographer's assistants and any other expenses of the district, including the costs of the advisory committee in implementing

resolutions adopted by the appropriators or water users of the district for activities in addition to the payment of the salary and operating expenses of the district hydrographer and assistants, shall be paid in the manner provided in this section. The budget shall show the aggregate amount to be collected from all the appropriators or water users in the district, and the amount to be paid by each ditch, canal company, irrigation district or other appropriator or water user, and for the purpose of computing the respective amounts, the cost of measuring the various diversions and other measurements during the past year or years not exceeding five (5) years, shall be used as a basis. Upon the adoption of the budget the amount payable by each ditch, canal company, irrigation district or other appropriator or water user, as shown by the budget, shall become the debt of each respectively and shall become due and payable as in this chapter provided.

[42-713, added 1995, ch. 291, sec. 3, p. 1022.]

42-714. BUDGET -- COLLECTION METHOD -- ENFORCEMENT. (1) The budget, when approved, shall be filed with the secretary of the meeting and the district treasurer and thereupon the district hydrographer shall immediately prepare and file a certified copy thereof with the director of the department of water resources. The budget so approved shall be due and payable on the first day of April of each year unless a different due date is specified by resolution of the appropriators or water users at the annual meeting. Any assessments not paid by the due date shall bear interest from the due date until paid at the rate of eight percent (8%) per annum.

(2) The district hydrographer is authorized to collect his compensation and that of his assistants, and other expenses of the district, directly from the appropriators or water users, canal companies, and irrigation districts. The district hydrographer shall collect such compensation and expenses directly from the appropriators or water users and shall turn the collected funds over to the water measurement district treasurer for deposit and disbursement in accordance with section 42-715, Idaho Code.

(3) The district hydrographer is authorized to cause the delivery of water to be withheld or to cause diversions of water to cease by those users who have not paid their pro rata share of the cost of operating the district as levied until such time as the pro rata share of the cost is paid.

(4) The water measurement district shall have the right to collect any charges due and unpaid, by civil action, the action to be brought in any court of competent jurisdiction, in the name of the district hydrographer to whom such charges are payable, and in addition to the amount found due, together with interest and costs, may also recover such sum as the court may adjudge reasonable as attorney's fees in the action.

(5) The appropriators or water users may by resolution request the department of water resources to prepare and mail the billings for the collections authorized in this section. The resolution will agree to reimburse to the department the actual cost incurred by the department in preparing and mailing the billings.

[42-714, added 1995, ch. 291, sec. 3, p. 1023.]

42-715. DUTIES OF THE WATER MEASUREMENT DISTRICT TREASURER. (1) The water measurement district treasurer shall keep a complete, accurate and permanent record of all moneys received by and disbursed for and on behalf of the district. The water measurement district treasurer shall deposit all moneys of the district in a designated depository approved at the annual meeting,

and shall comply with the public depository law as contained in chapter 1, title 57, Idaho Code.

(2) Before undertaking the duties of the office, the water measurement district treasurer shall take and subscribe to an oath before an officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the office, and shall file the oath with the director of the department of water resources. Upon issuance by the director of a certificate confirming the selection of a water measurement district treasurer, the actions taken by the water measurement district treasurer in fulfillment of the duties of the office are covered by the state group surety bond as provided in sections 59-801 through 59-804, Idaho Code.

(3) The water measurement district treasurer shall serve until a successor is elected or appointed, and qualified. A water measurement district treasurer may be removed from office by the director for failure to perform the duties of the office in the manner provided for removal of a district hydrographer.

(4) Compensation for the services of the water measurement district treasurer shall be set at the annual meeting and may be established on a fixed sum, per diem, or voluntary basis. If a water measurement district treasurer is appointed by the director in the absence of being elected at the annual meeting, the director shall fix the compensation to be paid, if any.

(5) The treasurer of the water measurement district shall only disburse moneys from the water measurement district account upon submission of a written voucher approved by the district hydrographer for expenses incurred for water measurement district purposes related to the district or by a voucher approved by the chairman of the advisory committee for activities pursuant to resolutions adopted by the appropriators or water users from district funds.

(6) It shall be the duty of the water measurement district treasurer to prepare a statement of the financial affairs of the district at the end of each fiscal year and to file the statement with the director of the department of water resources. An audit of the financial affairs of the district shall be made as required in section 67-450B, Idaho Code. A certified copy of the audit shall be filed with the director of the department of water resources following the audit.

(7) In water measurement districts with an annual budget of three thousand dollars (\$3,000) or less, the appropriators or water users may, by resolution adopted at the annual meeting, authorize the district hydrographer to serve as water measurement district treasurer. District hydrographers in water measurement districts with annual budgets in excess of three thousand dollars (\$3,000) shall not be authorized to act as water measurement district treasurer.

[42-715, added 1995, ch. 291, sec. 3, p. 1023.]