

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 9
CONSTRUCTION WORK AND ACQUIREMENT OF PROPERTY

43-901. CONTRACTS FOR CONSTRUCTION WORK AND PURCHASING. The provisions relative to competitive bidding set forth in [chapter 28, title 67](#), Idaho Code, apply to all irrigation districts of the state of Idaho, but shall be subject to the provisions of any specific statute pertaining to the letting of any contract, purchase or acquisition of any commodity or thing by soliciting and receiving competitive bids therefor, and shall not be construed as modifying or amending the provisions of any such statute, nor preventing the irrigation district from doing any work by its own employees.

[43-901, as added by 1975, ch. 49, sec. 2, p. 94; am. 1983, ch. 27, sec. 1, p. 76; am. 1984, ch. 136, sec. 4, p. 324; am. 2002, ch. 100, sec. 1, p. 275; am. 2005, ch. 213, sec. 14, p. 650.]

43-902. CONSTRUCTION WORK -- ADDITIONAL ITEMS. The term construction work as herein used, shall be deemed to include the erection of pump houses and electrical and other pumps or appliances for raising water onto the lands, as well as dams, headgates, ditches, laterals and other irrigation works. There may be included in any contract for construction, maintenance, interest and power charges for such period as the directors and the contractor may agree, not to exceed three (3) years, and when so included, interest, electrical, or other power and maintenance charges for the term agreed upon may be paid in bonds of the district to the amount agreed upon.

[(43-902) Last part of R.C., sec. 2404a, as added by 1913, ch. 169, sec. 1, p. 541; reen. C.L., sec. 2416a; C.S., sec. 4404; I.C.A., sec. 42-902.]

43-903. NOTICE FOR BIDS DISPENSED WITH. On the petition of fifty (50) or a majority of the owners of land in said district, to be determined as provided by section [43-101](#), Idaho Code, the board of directors may do any work mentioned in the preceding section on behalf of the district, and it may use the construction fund therefor; in such case they need not publish notice for bids as provided in section [43-901](#), Idaho Code.

[(43-903) 1903, p. 150, sec. 33a, as added by 1907, p. 484, sec. 1, subd. 33a; reen. R.C. & C.L., sec. 2417; C.S., sec. 4405; I.C.A., sec. 42-903; am. 2005, ch. 213, sec. 15, p. 652.]

43-904. PAYMENT OF CLAIMS. No claim shall be paid by the district until allowed by the board of directors, and only upon a warrant or check signed by two (2) officers authorized by the board.

[(43-904) 1903, p. 150, sec. 34; reen. R.C. & C.L., sec. 2418; C.S., sec. 4406; I.C.A., sec. 42-904; am. 1967, ch. 211, sec. 2, p. 641.]

43-905. PAYMENT OF EXPENSES -- MAINTENANCE TOLLS -- ACCOUNTS OF OFFICERS. The cost and expense of purchasing and acquiring property and constructing works and improvements to carry out the formulated plan, shall be paid out of the construction fund.

For the purpose of defraying the expenses of the organization of the district, and of the care, operation, management, repair and improvement of such portion of said canal and works as are completed and in use, including salaries of officers and employees, the board may fix rates of tolls and charges for use of water from the canals and irrigation works and plants or equipment of the district, and in addition thereto may provide for the payment of such expenses, either in whole or in part, by levy of assessments therefor, as provided in section [43-701](#) [, Idaho Code]. Where a toll is fixed for the payment of part of such expenditures and an assessment levied for the remainder, any portion of such toll, remaining unpaid at the time fixed for levying the next annual assessment, in the discretion of the board may be added to and become part of the assessment against the land delinquent in the payment of such toll; and where both a toll is fixed and assessment levied for the same expenditures, the amount paid as toll may be applied as credit upon such assessment. The board in its order fixing or levying such tolls may fix the date or dates on or before which the same must be paid, may make the same payable in advance of the delivery of any water during the year for which the same are fixed, and may make provision for the collection thereof and the keeping of a toll book by the district treasurer. The procedure for levying and collection of assessments, where not provided for in sections [43-701](#) and [43-703](#), [Idaho Code,] shall conform to the provisions of this title relating to the payment of principal and interest of bonds. All assessments shall be listed and carried out in the regular assessment book and collected by the treasurer at the time and in the manner of the regular annual assessment. All special assessments are a lien on the lands assessed from the time when they are ordered.

Whenever an assessment book or toll book shall be delivered to the treasurer, the secretary shall charge the treasurer with the total amount of the various amounts as carried out in said books. On the second Monday of January in each year, the treasurer shall make a semiannual statement with the secretary and deliver to the secretary a statement in brief of all assessments delinquent at that time, and account for all sums therefor collected. The treasurer shall make such settlements for tolls at such times as may be ordered by the board. On the second Monday of July the treasurer shall make final settlement with the secretary and deliver to the secretary a duplicate delinquent list and account for all sums not shown on said delinquent list. The secretary shall then charge the treasurer with the amount of said list and penalties added, and upon receiving the affidavit of publication thereof, he shall charge the treasurer with twenty-five cents (25¢) additional for each description published. On the first Monday after the sale, the treasurer shall make final settlement for assessments by receiving credit for the property sold to the district and accounting for all the balance.

[(43-905) 1903, p. 150, sec. 35; am. 1907, p. 484, sec. 1, subd. 35; reen. R.C., sec. 2419; am. 1911, ch. 71, sec. 7, p. 194; am. 1911, ch. 154, sec. 12, p. 461; reen. C.L., sec. 2419; C.S., sec. 4407; am. 1925, ch. 128, sec. 9, p. 173; I.C.A., sec. 42-905.]

43-906. INTERSECTIONS WITH STREETS, RAILROADS, WATERCOURSES. The board of directors shall have power to construct the said works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch or flume which the route of said canal or canals may intersect or cross, in such manner as to afford security for life and property; but said board

shall restore the same when so crossed or intersected, to its former state as near as may be, or in a sufficient manner not to have impaired unnecessarily its usefulness; and every company whose railroad shall be intersected or crossed by said work shall unite with said board in forming said intersections and crossings and grant the privileges aforesaid; and if such railroad company and said board, or the owners and controllers of said property, thing or franchise to be crossed, cannot agree upon the amount to be paid therefor, or upon the points or the manner of said crossings or intersections, the same shall be ascertained and determined in all respects as herein provided in respect to the taking of land.

[(43-906) 1903, p. 150, part of sec. 36; am. R.C. & C.L., sec. 2420; C.S., sec. 4408; I.C.A., sec. 42-906.]

43-907. RIGHT OF WAY OVER STATE LANDS. The right of way is hereby given, dedicated and set apart, to locate, construct and maintain said works over and through any of the lands which are now or may be the property of the state.

[(43-907) 1903, p. 150, part of sec. 36; reen. R.C. & C.L., sec. 2421; C.S., sec. 4409; I.C.A., sec. 42-907.]

43-908. RIGHT OF EMINENT DOMAIN. All irrigation districts organized under the laws of the state of Idaho shall have the right of eminent domain, with the power by and through their boards of directors, to cause to be condemned and appropriated in the name of and for the use of said districts, all lands, water rights, reservoirs, canals and works constructed or being constructed by private owners, and lands for reservoirs for the storage of needful waters, and all necessary appurtenances and other property necessary for the construction, use and supply, maintenance, repair and improvement of said canal or canals and works. Said irrigation districts shall have the right by and through their boards of directors to acquire by purchase or other legal means, any or all of the property mentioned and referred to in this section. In any action or proceeding for the condemnation of any property mentioned and referred to in this section, wherein said irrigation district is a party, the plaintiff must, within six (6) months after final judgment, pay the sum of money assessed, or said judgment will be annulled. Except as otherwise provided in this section, the provisions of the laws of Idaho relative to the right of eminent domain, civil actions and new trials and appeals, shall be applicable to, and constitute the rules of practice in, condemnation proceedings by said irrigation districts.

[(43-908) 1907, p. 221, secs. 1, 2, 3, 4; reen. R.C. & C.L., sec. 2422; C.S., sec. 4410; I.C.A., sec. 42-908.]