

STATEMENT OF PURPOSE

RS27498 / S1316

This legislation modifies the current process for issuing permits and licenses to municipal providers for "reasonably anticipated future needs" water rights (also known as "RAFN" water rights). A RAFN water right authorizes a municipal provider to secure a long term municipal water supply and develop the municipal water use over an extended period of time known as the planning horizon. Under current law, proof of beneficial use for RAFN rights is often due years or decades before the planning horizon ends. As a result, the Idaho Department of Water Resources ("IDWR") must issue a water right license based on a revised estimate of the amount of water that the municipal provider will beneficially use by the end of the planning horizon. The estimate is based partly on population growth projections and partly on the capacity of the water system constructed or used when proof of beneficial use is submitted. Installing capacity may require municipal providers to invest in water delivery infrastructure before it is needed. Equating capacity and projected population growth to future beneficial use causes difficulty for the Department in issuing the final license and creates uncertainty for municipal providers. This legislation reduces uncertainty in the water right licensing process by causing the development period for RAFN rights to correspond to the planning horizon and by authorizing the Director of IDWR to license RAFN water rights in incremental steps based upon actual beneficial use up through the end of the development period.

In accordance with Idaho Supreme Court precedent, the provisions set forth in this legislation will apply to applications for RAFN permits approved after the effective date of this legislation, even if the application was submitted prior to the effective date of this legislation. The legislation states how it will apply to permits in existence at the time of the effective date of this legislation.

The legislation also includes other clean-up revisions to the affected statutes to clarify and streamline the permitting and licensing process for both RAFN and non-RAFN rights.

FISCAL NOTE

The changes to Chapter 2, Title 42, Idaho Code, in this legislation will provide further clarity and efficiency in the permitting and licensing of water rights and will cause no fiscal impact to state or local governments.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).