

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 406, As Amended

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO RECREATIONAL WATER AND/OR SEWER DISTRICTS; AMENDING SECTION
2 42-3202A, IDAHO CODE, TO PROVIDE THAT ANNEXATION DOES NOT CHANGE THE
3 STATUS OF A RECREATIONAL WATER AND/OR SEWER DISTRICT AND TO MAKE TECH-
4 NICAL CORRECTIONS; AMENDING SECTION 42-3210, IDAHO CODE, TO PROVIDE
5 WHEN DIRECTOR ZONES ARE CREATED AND TO PROVIDE FOR THE APPOINTMENT OF
6 A PERSON-AT-LARGE; AMENDING CHAPTER 32, TITLE 42, IDAHO CODE, BY THE
7 ADDITION OF A NEW SECTION 42-3211b, IDAHO CODE, TO PROVIDE FOR THE CRE-
8 ATION OF BOARD OF DIRECTOR ZONES; AND AMENDING CHAPTER 32, TITLE 42,
9 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-3240, IDAHO CODE, TO PRO-
10 VIDE PROCEDURES FOR AN ANNEXATION OR WITHDRAWAL OF AREA IN A CITY, WITH
11 AN EXCEPTION.
12

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

14 SECTION 1. That Section 42-3202A, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 42-3202A. RECREATIONAL WATER AND/OR SEWER DISTRICT -- DEFINITION. A
17 recreational water and/or sewer district is one in which less than a major-
18 ity of the landowners or state lessees or federal permittees in the district
19 sought to be created reside within the district and at least fifty ~~per cent~~
20 percent (50%) of the land area of said district is in a natural state, or used
21 for agricultural purposes.

22 The actual or potential development anticipated for said district shall
23 be predominantly recreational in character. The district or areas near
24 the district shall meet one (1) or more of the following criteria: have
25 unique scenic value; man-made or natural recreational facilities such as
26 waterways, marinas, ski slopes, wilderness areas; provide open space; and
27 be removed from large, densely populated urban areas. Recreational water
28 and/or sewer districts shall provide services and/or facilities to landown-
29 ers or state lessees or federal permittees. The proposed district shall be
30 in the best interests of the state of Idaho in that the benefits derived by
31 property owners shall effectuate the preservation and development of recre-
32 ational opportunities within the state.

33 An annexation shall not change the status of a recreational water and/or
34 sewer district.

35 SECTION 2. That Section 42-3210, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 42-3210. MEETINGS -- VACANCIES. The board shall meet regularly once
38 each month at a time and in a place to be designated by the board. Special
39 meetings may be held as often as the needs of the district require, on notice
40 to each member of the board. Three (3) members of the board shall constitute

1 a quorum at any meeting. Any vacancy on the board shall be filled by the re-
 2 remaining members or member of the board, the appointee to act until the next
 3 biennial election when the vacancy shall be filled by election. If the board
 4 shall fail, neglect or refuse to fill any vacancy within thirty (30) days af-
 5 ter the same occurs, the court having jurisdiction shall fill such vacancy.
 6 In the event the board has created director zones and is unable to appoint a
 7 board member from the zone vacated, the board may appoint a person-at-large
 8 who is an elector of the water and/or sewer district to serve as director of
 9 the zone where the vacancy occurred.

10 SECTION 3. That Chapter 32, Title 42, Idaho Code, be, and the same is
 11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 12 ignated as Section 42-3211b, Idaho Code, and to read as follows:

13 42-3211b. DECISION TO ESTABLISH BOARD DIRECTOR ZONES. Subsequent to
 14 the creation of a water and/or sewer district and the election of the first
 15 board of directors, the water and/or sewer district board of directors may
 16 elect, by resolution, to divide the district into five (5) director zones,
 17 as nearly equal in area and parcels to be served as practicable, to be known
 18 as zones one, two, three, four and five. If the board of directors elects to
 19 create director zones, then it shall also, prior to the next district elec-
 20 tion, adopt a director election transition schedule for each zone, in accor-
 21 dance with the terms of office of the existing directors, which provides that
 22 at the end of the last then-currently serving director term, there will not
 23 be more than one (1) director per director zone.

24 (1) In the event the board of directors establishes director zones,
 25 each water and/or sewer district director shall be elected on a districtwide
 26 basis.

27 (2) Director zones may be revised or modified by the board of directors
 28 as conditions governing their establishment change.

29 SECTION 4. That Chapter 32, Title 42, Idaho Code, be, and the same is
 30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 31 ignated as Section 42-3240, Idaho Code, and to read as follows:

32 42-3240. ANNEXATION OR WITHDRAWAL OF AREA IN A CITY. Any area embraced
 33 within the limits of any city may be annexed into or withdrawn from a water
 34 and/or sewer district organized under this chapter in accordance with the
 35 following:

36 (1) The city council of the city and the board of directors of the water
 37 and/or sewer district approve the terms and conditions of the annexation or
 38 withdrawal by ordinance or resolution.

39 (a) In the event any of the area within any city, subject to annexation
 40 to or withdrawal from a water and/or sewer district is being served by
 41 an existing city or district water or sewer system, the following condi-
 42 tions must exist, which conditions must be stated in the city's and the
 43 district's ordinance or resolution:

44 (i) The annexing district or, upon a withdrawal, the city is capa-
 45 ble of providing all the essential functions of the existing sys-
 46 tem;

1 (ii) The annexing district or, upon a withdrawal, the city has
2 agreed to assume and perform the essential existing system func-
3 tions;

4 (iii) The annexing district or, upon a withdrawal, the city either
5 has or is acquiring sufficient assets, infrastructure and other
6 resources to perform the essential operations of the existing sys-
7 tem;

8 (iv) Provisions have been made for the retirement, payment or as-
9 sumption of any debt, bonds or other liabilities and obligations
10 of the existing system;

11 (v) Provisions have been made for the liquidation and disburse-
12 ment of the existing system assets and infrastructure not intended
13 to be transferred;

14 (vi) Provisions have set forth requirements for post-annexation
15 or withdrawal operations and may also provide that the annexed
16 area be designated as a district subdistrict and provide for di-
17 rector zones;

18 (vii) That notice of the proposed annexation or withdrawal and
19 transfer has been published once a week for two (2) consecutive
20 weeks preceding the hearing in a newspaper of general circulation
21 in the city and the district, including information on filing a pe-
22 tition for an election on the proposed transfer; and

23 (viii) That an election has been held, if required pursuant to
24 paragraph (d) of this subsection, and the transfer has been ap-
25 proved by a majority of the qualified electors of the district and
26 city voting on the issue.

27 (b) Prior to passage of a resolution making the required determination,
28 the city council and the district board of directors shall hold a joint
29 hearing to receive public testimony on the proposed transfer. The joint
30 public hearing shall be preceded by a joint notice published once a
31 week for two (2) consecutive weeks preceding the hearing in a newspaper
32 of general circulation in the city and the district. The notice shall
33 state the date, time and location of the joint public hearing and that
34 the purpose of the hearing is to receive public testimony on the pro-
35 posed annexation or withdrawal, transfer and agreement of operations
36 and the method for a petition of qualified electors of the city and the
37 district to be submitted requesting an election to approve the proposed
38 annexation or withdrawal, transfer and agreement of operations.

39 (c) After the joint public hearing, the city council and the district
40 board of directors, by majority vote of both governing bodies, may
41 jointly submit the proposed transfer to the qualified electors of the
42 city and the district or shall take the matter under advisement for a
43 period of thirty (30) days after the hearing. An election shall be held
44 if, prior to the expiration of the thirty (30) day period, a petition
45 signed by at least ten percent (10%) of the qualified electors of the
46 city and/or the district is submitted requesting an election on the pro-
47 posed annexation or withdrawal, transfer and agreement of operations.
48 If at the end of the thirty (30) day period no petition has been submit-
49 ted with the required number of signatures, the city council and the
50 district board of directors may proceed to adopt a resolution or ordi-

1 nance finding the above conditions exist and approving the annexation
2 or withdrawal, transfer and agreement of operations.

3 (d) An election held pursuant to the provisions of this subsection
4 shall be conducted according to the provisions of section 34-106, Idaho
5 Code, and the proposed annexation or withdrawal, transfer and agreement
6 of operations shall be approved by a majority of the qualified electors
7 of the city and a majority of the qualified electors of the district
8 voting on the issue in order for the city council and the district board
9 of directors to proceed to adopt a resolution or ordinance approving the
10 annexation or withdrawal, transfer and agreement of operations.

11 (2) In the event the city council and district board of directors ap-
12 prove the terms and conditions of the annexation or withdrawal, transfer and
13 agreement of operations by ordinance or resolution, the city and district
14 shall jointly file with the district court in which the majority of the area
15 of the district and city are located a certified copy of the city's ordi-
16 nance or resolution and the district's ordinance or resolution; certified
17 results of the election approving the annexation or withdrawal, transfer and
18 agreement of operations, if applicable; and all other necessary documenta-
19 tion requested by the district court. Upon satisfying itself that the re-
20 quired conditions of this section exist, the district court shall enter an
21 order approving the annexation or withdrawal, transfer and agreement of op-
22 erations and establish the date on which the annexation or withdrawal and
23 transfer of assets shall occur and the effective date of the agreement of
24 operations; provided however, upon good cause shown, the court may extend
25 the annexation or withdrawal and transfer of assets date and the effective
26 date of the agreement of operations. Such orders shall be recorded with the
27 county recorder and filed with the county assessor in the counties within
28 which the district and the city are located and filed with the state tax com-
29 mission within thirty (30) days following the effective date of such annexa-
30 tion or withdrawal, transfer and agreement of operations.

31 (3) If the ordinance or resolution approved by the city and the district
32 includes an agreement of operations setting forth the requirements for post-
33 annexation or withdrawal system operations, the district in an annexation
34 and the city in a withdrawal shall operate the sewer and/or water system(s)
35 in accordance with the agreement.

36 (4) The provisions of this section do not apply to any petition filed
37 with the board for the annexation of real property by landowners pursuant to
38 section 42-3218, Idaho Code.