

IN THE SENATE

SENATE BILL NO. 1224

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5232, IDAHO CODE,
2 TO PROVIDE AN ALTERNATIVE MEANS OF DETERMINING A MEMBER'S PROPORTION-
3 ATE SHARE OF THE TOTAL OF ALL AMOUNTS TO BE ASSESSED; AMENDING SECTION
4 42-5233, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE TOTAL DOLLAR
5 AMOUNT OF CERTAIN WARRANTS; AND AMENDING SECTION 42-5234, IDAHO CODE,
6 TO PROVIDE AN ALTERNATIVE MEANS OF DETERMINING CERTAIN AGGREGATE GROUND
7 WATER RIGHTS.
8

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

10 SECTION 1. That Section 42-5232, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 42-5232. LEVY OF ASSESSMENTS. (1) The secretary of the board shall be
13 the assessor of the district, and on or before August 1 of each year shall
14 prepare an assessment book containing a full and accurate list of all lands
15 within the district that are subject to assessment under this chapter.

16 (2) At a regular meeting of the board between August 1 and November 1 of
17 each year, the board of directors shall determine the amount necessary to be
18 raised for payment of the annual payment on any and all indebtedness of the
19 district for the following year. Money received in payment of such assess-
20 ments shall be deposited in a separate fund to be known as the debt retirement
21 fund.

22 (3) The board shall, in addition, determine the assessments necessary
23 to pay, without limitation, the expenses of developing, operating or main-
24 taining any mitigation plan established by the district and the cost of con-
25 tracts with any person for mitigation plans, or evaluation of proposed con-
26 tracts. Money received in payment of such assessments shall be deposited in
27 a separate fund to be known as the mitigation expense fund.

28 (4) The board shall, in addition, determine the assessments necessary
29 to pay maintenance and operation of the district not related to mitigation
30 plans or purposes. These operation and maintenance duties include making
31 the assessment book, giving notice of assessments and making collections
32 thereof, and other duties, programs or projects of the district to the ex-
33 tent such duties, programs or projects are not attributable to mitigation
34 plans or purposes. Money received in payment of such assessments shall be
35 deposited in a separate fund of the district to be known as the operating
36 expense fund.

37 (5) Any ground water user who becomes a member of a district for mit-
38 igation purposes shall be subject to no assessment beyond his proportional
39 share of the costs, including administrative costs and other reasonable ex-
40 penses, of any mitigation plan or actions or activities in furtherance of the
41 district's mitigation plans or purposes.

1 (6) No assessment made pursuant to this chapter shall be a lien against
2 any municipal property.

3 (7) Except as otherwise provided in this chapter, each member shall
4 pay a proportionate share of the total of all amounts to be assessed for the
5 purposes aforementioned, which share shall be based on (a) the ratio which
6 the quantity of water the water user is authorized to appropriate under the
7 member's ground water right(s) bears to the total quantity of water autho-
8 ri- rized for appropriation under the ground water rights of all water users
9 in the district, or (b) the ratio of acres the water use is authorized to
10 irrigate under the member's ground water right bears to the total quantity
11 of water authorized for appropriation under the ground water rights of all
12 water users in the district; provided, that the board shall be entitled to
13 levy assessments that adjust a member's proportionate share to take into
14 consideration priority dates, consumptive use under the members' respective
15 ground water rights, other attributes of the ground water rights appurtenant
16 to the assessed lands, and/or the benefits the member derives from a mitiga-
17 tion plan or other activity of the district. Any nonirrigator who is a member
18 of a ground water district, or whose ground water rights are appurtenant to
19 property located within a ground water district, and who has adopted and
20 implemented a mitigation plan that has been approved by the director and that
21 is not inconsistent with such a plan approved by the director and adopted and
22 implemented by the ground water district, shall be entitled to an assessment
23 credit for the contribution made by that nonirrigator's mitigation plan to-
24 wards the district's mitigation obligation as determined by the director.

25 SECTION 2. That Section 42-5233, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 42-5233. POWER TO INCUR INDEBTEDNESS -- ASSESSMENTS TO SECURE RE-
28 PAYMENT -- WARRANTS. (1) In order to secure funds for the mitigation plan
29 or plans for the district, the board of directors may, by resolution duly
30 adopted and entered upon the minutes, incur indebtedness by contract with a
31 money lending institution; provided however, that the term of such indebt-
32 edness shall not exceed thirty (30) years. To secure the repayment of any
33 indebtedness so incurred, the board shall levy assessments over the term of
34 the indebtedness in amounts sufficient to repay the interest and principal
35 as it falls due. Such assessments shall be levied in the manner and shall be
36 subject to the limitations set forth in section 42-5232, Idaho Code, and may
37 be levied only if the indebtedness has been approved at an election pursuant
38 to sections 42-5234 through 42-5238, Idaho Code.

39 (2) Notwithstanding the provisions of subsection (1) of this section,
40 the board of directors may, before the collection of the first assessment,
41 incur indebtedness for the purpose of organization, or for any of the pur-
42 poses of this chapter, and cause warrants of the district to issue therefor,
43 provided that the total dollar amount of the warrants authorized to be issued
44 shall not exceed three dollars (\$3.00) for each acre of land authorized to be
45 irrigated with ground water within the district, or for each two-hundredths
46 (.02) of a cubic foot per second of ground water authorized to be diverted
47 and used upon lands or facilities located within the district. Following the
48 collection of the first assessment, the board of directors may at any time
49 issue warrants of the district for the purpose of paying claims of indebted-

1 ness against the district, including salaries of officers and employees, not
2 to exceed the district's anticipated revenue.

3 (3) The warrants herein authorized shall be in form and substance the
4 same as county warrants or as nearly the same as may be practicable and shall
5 be signed by the chairman and attested by the secretary of said board. All
6 such warrants shall be presented by the holder thereof to the treasurer of
7 the district for payment who shall endorse thereon the day of presentation
8 for payment with the additional endorsement thereon, in case of nonpayment,
9 that they are not paid for want of funds, and such warrants shall draw in-
10 terest at a rate to be established by the board of directors from the date of
11 their presentation to the treasurer for payment as aforesaid until such war-
12 rants are paid. No warrants shall be issued in payment of any indebtedness
13 of such district for less than face or par value. It shall be the duty of
14 the treasurer from time to time when sufficient funds are available for that
15 purpose to advertise in a newspaper in the county in which the district is
16 situated requiring the presentation to the treasurer for payment of as many
17 of the outstanding warrants as are able to be paid. Ten (10) days after the
18 first publication of said notice by the treasurer calling in any of said out-
19 standing warrants, said warrants shall cease to bear interest, which shall
20 be stated in the notice. Said notice shall be published two (2) weeks con-
21 secutively and said warrants shall be called in and paid in the order of their
22 endorsement.

23 SECTION 3. That Section 42-5234, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 42-5234. ELECTION FOR INDEBTEDNESS -- REFERENDUM PETITION. (1) The
26 board may by resolution adopted by a two-thirds (2/3) majority of the board,
27 determine that the interest of the district and the public interest and
28 necessity demand the development and operation of a mitigation plan and
29 shall set forth the amount of obligation or contract indebtedness proposed
30 to be issued by the district under the provisions of this chapter for the
31 development of such mitigation plan. The board shall submit the contract
32 indebtedness in the proposed resolution to a vote of the qualified electors
33 of the district as defined in section 42-5210, Idaho Code, at an election to
34 be held only if within fifteen (15) days after the passage of such resolution
35 a referendum petition signed by qualified electors of the district whose ag-
36 gregate ground water rights equal not less than ten percent (10%), measured
37 in cubic feet per second or acres irrigated, of the aggregate ground water
38 rights of all qualified electors of the district, shall be filed with the
39 secretary of the district requesting that an election upon the issuance of
40 the contract indebtedness be held and conducted under the provisions of this
41 section. Any election required to be held pursuant to a referendum peti-
42 tion filed in accordance with this section for the purpose of submitting any
43 proposition or propositions of incurring such obligation or indebtedness
44 shall be held in accordance with section 34-106, Idaho Code. The resolution,
45 in addition to such declaration of public interest or necessity, shall re-
46 cite the objects and purposes for which the indebtedness is proposed to be
47 incurred, the estimated cost of the mitigation plan, the amount of principal
48 of the indebtedness to be incurred therefor, and the sources of the revenues
49 and assessments pledged to the payment of the indebtedness. The separate

1 election upon the assessments, shall be held at the same time as and shall
2 be combined with any such election required to be held upon the indebtedness
3 question pursuant to a referendum petition.

4 (2) Any election for indebtedness required to be held hereunder shall
5 be called by resolution, which resolution shall also fix the date upon which
6 such election shall be held, the manner of holding the same and the method
7 of voting for or against the incurring of the indebtedness. Such resolu-
8 tion shall also fix the compensation to be paid the officers of the election
9 and shall designate the precincts and polling places and shall appoint for
10 each polling place, from each precinct from the electors thereof, the of-
11 ficers of such election, which officers shall consist of three (3) judges,
12 one (1) of whom shall act as clerk, who shall constitute a board of election
13 for each polling place. The description of precincts may be made by refer-
14 ence to any order or orders of the county commission of the county or coun-
15 ties in which the district or any part thereof is situated, or by reference
16 to any previous order, or resolution of the board or by detailed description
17 of such precincts. Precincts established by the county commissions of the
18 various counties may be consolidated for special elections held hereunder.
19 In the event any such election shall be called to be held concurrently with
20 any other election or shall be consolidated therewith, the resolution call-
21 ing the election hereunder need not designate precincts or polling places
22 or the names of officers of election, but shall contain reference to the act
23 or order calling such other election and fixing the precincts and polling
24 places and appointing election officers therefrom. The resolution calling
25 the election shall prescribe an official notice of election, which notice
26 shall be published once a week for two (2) consecutive weeks, the last publi-
27 cation of which shall be at least ten (10) days prior to the date set for said
28 election, in a newspaper of general circulation printed and published within
29 the district, and no other or further notice of such election or publication
30 of the names of election officers or of the precincts or polling places need
31 be given or made.

32 (3) The respective election boards shall conduct the election in their
33 respective precincts in the manner prescribed by law for the holding of dis-
34 trict elections to the extent the same shall apply and shall make their re-
35 turns to the district secretary. At any regular or special meeting of the
36 board held not earlier than five (5) days following the date of such elec-
37 tion, the returns shall be canvassed and the results declared.

38 (4) If no referendum petition is filed, or if so filed, if it shall ap-
39 pear from the returns that the qualified electors of the district represent-
40 ing two-thirds (2/3) of the aggregate ground water rights of the district,
41 such fraction computed according to cubic feet per second, have voted in fa-
42 vor of the proposition, the district thereupon shall be authorized to incur
43 such indebtedness or obligations, or enter into such contracts, all for the
44 purposes provided for in the proposition submitted in the resolution, and
45 in the amount so provided. Submission of the proposition of incurring such
46 obligation or other indebtedness at such an election shall not prevent or
47 prohibit submission of the same or other propositions at subsequent election
48 or elections called for such purpose.