

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 370

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO WATER DISTRICTS; AMENDING SECTION 42-605, IDAHO CODE, TO REVISE
2 PROVISIONS RELATING TO WATER DISTRICT MEETINGS AND ELECTIONS, TO PRO-
3 VIDE THAT ABSENTEE AND PROXY VOTING ARE PROHIBITED AND TO REMOVE SURPLUS
4 VERBIAGE.
5

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

7 SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION
10 -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on
11 the first Monday in March in each year, ~~and,~~ except as provided in subsection
12 (2) of this section, ~~commencing at two o'clock P.M.,~~ a meeting of all persons
13 owning or having the use of a water right, in the waters of the stream or water
14 supply comprising such district, which right has been adjudicated or decreed
15 by the court or is represented by valid permit or license issued by the de-
16 partment of water resources.

17 (2) Such meeting shall be held at some place within the water district,
18 or at some nearby location convenient to a majority of those entitled to vote
19 thereat, ~~which place shall be designated by the director of the department~~
20 ~~of water resources.~~ The director of the department of water resources shall,
21 at least twenty-one (21) days prior to the meeting date, send notification
22 by regular mail to all persons, companies, or corporations or other entities
23 known by the director to hold rights to the use of the waters of such dis-
24 trict, which right has been adjudicated or decreed by the court or is rep-
25 resented by valid permit or license issued by the department of water re-
26 sources, of the time, date, location and purpose of the annual meeting. At
27 any annual meeting the water users may vote to waive the requirement for no-
28 tice by mail and provide for notice to be given for future meetings by pub-
29 lication of the time, date, location and purpose of the meeting in a news-
30 paper or newspapers in general circulation in the district. Published no-
31 tice shall be made once per week for two (2) consecutive weeks with the second
32 notice appearing at least fourteen (14) and not more than thirty (30) days
33 prior to the meeting. ~~In water districts whose area includes land in more~~
34 ~~than four (4) counties the annual meeting shall commence at ten o'clock A.M.~~
35 ~~instead of two o'clock P.M.:~~ provided, that the water users of any water dis-
36 trict may, by resolution adopted at an annual meeting or at a special meeting
37 properly called for that purpose, At any annual meeting, the water users may
38 vote to change the time of day when the meeting shall commence or change the
39 date for annual meetings in subsequent years to any day except Saturday and
40 Sunday between the second Monday of January and the ~~third Monday in March or~~
41 change both the time and the date fourth Tuesday of May, in which case the di-
42 rector of the department of water resources shall send notification at least

1 twenty-one (21) days prior to said meeting date. At an annual meeting the wa-
2 ter users may adopt resolutions to assure or improve the distribution of the
3 waters of the district within state law, and may provide that such resolu-
4 tions shall continue from year to year.

5 (3) At the meeting of the water users of a district there shall be
6 elected a watermaster for such water district, who may be authorized to
7 employ such other regular assistants as the water users shall deem neces-
8 sary, and who, upon appointment by the director ~~of the department of water~~
9 ~~resources~~, shall be responsible for distribution of water within said water
10 district. Notwithstanding any personnel classification assigned to the wa-
11 termaster and assistants pursuant to the provisions of chapter 53, title 67,
12 Idaho Code, the water users shall, prior to the election of such watermaster
13 and approval of the employment of assistants, fix the compensation to be paid
14 them during the time actually engaged in the performance of their duties.

15 (4) Voting shall be by majority vote of the water users present at the
16 meeting unless one (1) or more water users requests voting using the pro-
17 cedure which follows in this subsection. In such case the meeting chair-
18 man shall appoint a credentials committee to determine the number of votes
19 each water user present is authorized to cast. If requested, each person
20 present, owning or having the use for the ensuing season of any water right
21 in the stream or water supply comprising such water district, which right has
22 been adjudicated or decreed by the court or is represented by valid permit
23 or license issued by the department of water resources, shall be entitled to
24 a number of votes equal to the average annual dollar amount and any fraction
25 thereof assessed for that person's qualifying water right for the previous
26 five (5) years, or such lesser number of years as the right has been assessed.
27 If a right has not previously been assessed, a person present, owning or hav-
28 ing the use of the right for the ensuing season shall be entitled to a num-
29 ber of votes equal to the dollar amount and any fraction thereof which the
30 right would have been assessed had it existed and been reasonably used when
31 water was available under the priority of the right during the previous sea-
32 son. Absentee voting and voting by proxy are prohibited.

33 (5) At such meeting the water users shall choose a meeting chairman and
34 meeting secretary and ~~shall determine the manner and method of electing the~~
35 ~~watermaster.~~ The water users shall, ~~at the annual meeting, provide for the~~
36 ~~water district treasurer functions of any water district that collects or~~
37 ~~pays district expenses~~ in accordance with section 42-618 or 42-619, Idaho
38 Code, shall also elect a water district treasurer. Within five (5) business
39 days after such meeting the meeting chairman and meeting secretary shall
40 forward a certified copy of the minutes of such meeting to the department
41 of water resources. The meeting chairman, or the meeting secretary, if the
42 meeting chairman is not present, from the immediately preceding annual meet-
43 ing shall call the meeting to order and preside over the election of officers
44 for the meeting.

45 (6) At such meeting the water users may choose an advisory committee to
46 be composed of members selected as may be determined at the meeting, which
47 committee shall serve as advisors to the director and the watermaster in mat-
48 ters pertaining to the distribution of water within the district. The advi-
49 sory committee may be authorized to carry out policies as set forth in reso-
50 lutions duly adopted by the water users at the annual meeting or at a special

1 meeting. The advisory committee may also serve as the local committee to fa-
2 cilitate the rental of stored water if appointed by the water resource board
3 for such purpose under the provisions of section 42-1765, Idaho Code.

4 (7) A corporation or a water delivery organization, including, but not
5 limited to a corporation, a water company, an irrigation district, an irri-
6 gation company or a canal company, shall be considered a person for the pur-
7 pose of this section and shall designate someone to cast its vote by someone
8 ~~to be designated by the corporation.~~

9 (8) Should said meeting not be held, or should said watermaster not be
10 elected or the watermaster's compensation not be fixed as above provided,
11 then the director ~~of the department of water resources~~ is authorized to ap-
12 point a watermaster and fix the watermaster's compensation.

13 (9) The director ~~of the department of water resources~~ may remove any
14 watermaster whenever such watermaster fails to perform the watermaster's
15 duty, upon complaint ~~in that respect being~~ made to the director in writing,
16 by one (1) person owning or having the right to the use of a water right in
17 such district, which right has been adjudicated or decreed by the court or is
18 represented by valid permit or license issued by the department of water re-
19 sources provided, that upon investigation the director, after a hearing with
20 the other water users of said district, which shall be held in the district
21 or at some location convenient to the water users of the district, finds such
22 charge to be true, and the director may appoint a successor for the unexpired
23 term.

24 (10) Before entering upon the duties of the watermaster's office, said
25 watermaster shall take and subscribe to an oath before some officer autho-
26 rized by the laws of the state to administer oaths, to faithfully perform
27 the duties of the watermaster's office, as provided in section 42-607, Idaho
28 Code, and shall file that oath with the department of water resources. Upon
29 appointment by the director ~~of the department of water resources~~, the ac-
30 tions taken by a watermaster in fulfillment of the duties of his office are
31 covered by the state group surety bond as provided by sections 59-801 through
32 59-804, Idaho Code. A duly appointed watermaster that is reelected in con-
33 secutive years shall not be required to take and file additional oaths with
34 the department of water resources for each consecutive year the watermaster
35 is reelected. If a duly elected or appointed watermaster resigns, dies or is
36 physically unable to perform his duties during the remainder of the elected
37 or appointed watermaster term of service, then the director ~~of the depart-~~
38 ~~ment of water resources~~ is authorized to appoint a successor for the unex-
39 pired term as provided in paragraphs (a) and (b) of this subsection.

40 (a) If a water district advisory committee has been chosen as provided
41 in subsection (6) of this section, the water district advisory commit-
42 tee shall meet to either nominate a successor watermaster or request a
43 special meeting as provided in subsection (11) of this section to elect
44 a new watermaster. Upon receipt of a nomination from a majority of the
45 members of the water district advisory committee, the director ~~of the~~
46 ~~department of water resources~~ is authorized to appoint the nominated
47 successor watermaster for the unexpired term.

48 (b) If a water district advisory committee has not been chosen, the
49 director of the department of water resources is authorized to appoint
50 a temporary successor watermaster. The temporary appointment extends

1 through the unexpired term unless a special meeting is requested as
2 provided in subsection (11) of this section and water users elect a new
3 watermaster.

4 (11) The director shall call a special meeting of the water users of a
5 district upon receipt of a written request for such meeting from a majority
6 of the members of the advisory committee for a district, a written request
7 from water users representing thirty percent (30%) or more of the votes cast
8 at the last regular annual meeting, a written request from the watermaster or
9 on the director's own motion if the director determines a meeting is neces-
10 sary to address matters that cannot be delayed until the next regular annual
11 meeting. Notice of the time, place and purpose of the special meeting shall
12 be given by the director in the manner provided in subsection (2) of this sec-
13 tion, provided however, that a special meeting notice shall be sent at least
14 fourteen (14) days prior to the meeting date.

15 (12) The water users may, by resolution, authorize the watermaster to
16 acquire, hold and dispose of such real and personal property, equipment and
17 facilities in the name of the water district as necessary for the proper dis-
18 tribution of water, administration of the water district and enhancement of
19 water supplies, and shall provide that all such real and personal property
20 shall remain in the custody of the watermaster and the watermaster's succes-
21 sor.

22 (13) The water users may, by resolution, authorize the watermaster to
23 develop, coordinate or provide, through contract or by other means, for
24 weather modification projects involving cloud seeding that are designed to
25 increase the water supplies of the water district by enhancing natural pre-
26 cipitation and which conform to state water planning objectives.