

IN THE SENATE

SENATE BILL NO. 1041

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5232, IDAHO CODE,
2 TO PROVIDE FOR EMERGENCY ASSESSMENTS, TO PROVIDE FOR MITIGATION BY A
3 DISTRICT DUE TO NONCOMPLIANCE OF A MEMBER AND FOR THE LEVY OF SPECIAL
4 ASSESSMENTS, AND TO REVISE PROVISIONS REGARDING THE APPORTIONMENT OF
5 AMOUNTS TO BE ASSESSED; AND AMENDING SECTION 42-5241, IDAHO CODE, TO
6 PROVIDE CODE REFERENCES, TO PROVIDE A PROCEDURE ASSOCIATED WITH CERTAIN
7 DISTRICT ASSESSMENTS, AND TO MAKE TECHNICAL CORRECTIONS.
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) If, after levying the regular assessments described in this sec-
38 tion, the board determines that the money held in such fund is inadequate or
39 prior to the next regular assessment is likely to become inadequate to pay
40 the expenses for which such fund exists, the board may levy an emergency as-
41 essment to pay such additional expenses; provided, that the board shall, at
42 least fourteen (14) days prior to the meeting at which the board determines

1 the amount necessary to pay such expenses, mail written notice of the board's
 2 intent to levy an emergency assessment to each member of the district at the
 3 address on file with the district.

4 (6) If a mitigation plan has been approved and a district member fails
 5 to operate in accordance with the plan, the board may take action to mitigate
 6 such member's noncompliance and levy a special assessment against such mem-
 7 ber equal to one hundred twenty-five percent (125%) of all costs incurred by
 8 the district to mitigate such member's noncompliance. If the noncompliance
 9 constitutes excess water use, the board may alternatively levy a special as-
 10 essment equal to one hundred dollars (\$100) per acre-foot of excess water
 11 use.

12 (7) Any ground water user who becomes a member of a district for mit-
 13 igation purposes shall be subject to no assessment beyond his proportional
 14 share of the costs, including administrative costs and other reasonable ex-
 15 penditures, of any mitigation plan or actions or activities in furtherance of the
 16 district's mitigation plans or purposes.

17 (68) No assessment made pursuant to this chapter shall be a lien against
 18 any municipal property.

19 (79) Except as otherwise provided in this chapter, each member shall
 20 pay a proportionate share of the total of all amounts to be assessed for the
 21 purposes aforementioned, which share shall be based on (a) the ratio which
 22 the quantity of water the ~~water user~~ member is authorized to appropriate
 23 divert under the member's ground water right(s) bears to the total quan-
 24 tity of water authorized for ~~appropriation~~ diversion under the ground water
 25 rights of all ~~water users in members of the district~~, or (b) the ratio which
 26 the number of acres the ~~water use~~ member is authorized to irrigate under the
 27 member's ground water right bears to the total ~~quantity of water~~ number of
 28 acres authorized for ~~appropriation~~ irrigation under the ground water rights
 29 of all ~~water users in members of the district~~; provided, that the board shall
 30 be entitled to levy assessments that adjust a member's proportionate share
 31 to take into consideration priority dates, consumptive use under the mem-
 32 bers' respective ground water rights, other attributes of the ground water
 33 rights appurtenant to the assessed lands, and/or the benefits the member
 34 derives from a mitigation plan or other activity of the district. Any non-
 35 irrigator who is a member of a ground water district, or whose ground water
 36 rights are appurtenant to property located within a ground water district,
 37 and who has adopted and implemented a mitigation plan that has been approved
 38 by the director and that is not inconsistent with such a plan approved by the
 39 director and adopted and implemented by the ground water district, shall be
 40 entitled to an assessment credit for the contribution made by that nonir-
 41 rigator's mitigation plan towards the district's mitigation obligation as
 42 determined by the director.

43 SECTION 2. That Section 42-5241, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 42-5241. PAYMENT OF ASSESSMENTS -- WHEN DELINQUENT -- INTEREST AND
 46 PENALTIES. (1) District assessments levied pursuant to subsections (2)
 47 through (4) of section 42-5232, Idaho Code, shall be billed and collected in
 48 one (1) of the following ways:

1 (1a) On or before the first day of December, the treasurer of the dis-
2 trict shall mail an assessment bill to each water user and shall publish
3 a notice for a period of not less than two (2) weeks in a newspaper pub-
4 lished or having general circulation in each of the counties in which
5 any part of the district is situated, which bill and notice shall set
6 forth the date by which assessments must be paid and the times and places
7 at which payment may be made. Assessments collected by the ground water
8 district shall be due and payable on or before December 31 of each year,
9 after which date each unpaid assessment shall be delinquent; shall bear
10 interest at the rate of interest established for money due on judgments
11 until paid; shall entitle the district to take any appropriate action
12 to collect the assessment, including suit and the foreclosure of liens
13 as provided in this chapter; and, in addition, shall be subject to a
14 penalty in the amount of fifteen dollars (\$15.00) per delinquent as-
15 sessment; or

16 (2b) The board of directors of any ground water district organized
17 under the laws of this state desiring to provide for the collection of
18 district assessments by the county treasurer instead of the district
19 treasurer may do so by adopting a resolution providing for collection
20 by the county treasurer, and furnishing a copy of the resolution to
21 the county auditor of each county in which any of the district lands
22 are located; provided that the county commissioners of the county or
23 counties must first approve the ground water district resolution by a
24 proper resolution of the board of county ~~commissioner's~~ commissioners
25 adopted by a majority of the county commissioners and made and entered
26 upon the minutes of the board or boards of county commissioners. The
27 board of county ~~commissioner's~~ commissioners' resolution may provide
28 for collection fees and for any additional fee against the ground wa-
29 ter district for the cost of transferring records and initiating the
30 collection process. The board of county commissioners of any county,
31 having determined that the collection of ground water district assess-
32 ments is an undue burden upon the county and shall no longer be provided,
33 shall notify the board of directors of the ground water district by De-
34 cember 1 in the year preceding the year for which the action shall first
35 be effective by providing to the board of directors a certified copy of
36 the majority decision of the board of county commissioners.

37 If the ground water district board determines to issue assessments
38 through the respective counties, the treasurer of the ground water district
39 first shall prepare a list containing the legal description, the assessor's
40 parcel number, the name and last known address of the owner of record, and
41 the amount of the assessment for each parcel. The sum assessed and charged
42 against each parcel shall be entered by the ground water district as the
43 operation and maintenance assessment of the (name of district) ground water
44 district. On or before the third Tuesday of July of each year, the list shall
45 be certified by the treasurer of the ground water district to the county au-
46 ditor of the county in which the lands are located, and the county treasurer
47 shall enter the same upon the tax rolls, as provided by law for the entry of
48 taxes, against the land of each of the persons named in the list, together
49 with the amounts thereof; and the same shall be subject to the same interest
50 and penalties in case of delinquency as in the case of property taxes and

1 shall be collected in the same manner as taxes and subject to the same right
2 of redemption, and the lands sold for the collection of delinquency shall
3 be subject to the same right of redemption, as the sale of land for property
4 taxes.

5 When a ground water district includes lands in more than one (1) county,
6 the treasurer of the ground water district shall prepare separate lists for
7 the county assessor for each county. When a parcel lies partly in one ~~(1)~~
8 county and partly in another county, only the portion in a county shall be in-
9 cluded on the list for that county. If the legal description of any parcel on
10 any such list differs from the legal description as shown by the assessor's
11 records, the assessor shall notify the district treasurer of the discrepancy
12 and the district treasurer shall submit to the county assessor an addendum
13 changing the description to conform with the assessor's records; provided,
14 that where the discrepancy between the descriptions occurs because a portion
15 of the parcel lies outside the district, no change in description shall be
16 required, and the district assessments shall be effective only as to the por-
17 tions of any parcel that are within district boundaries.

18 Assessments shall be due and payable on the date specified in the
19 county's tax notice, shall be collected and accounted for by the county
20 treasurer in the same manner as property taxes, and shall be paid over to the
21 ground water district treasurer together with any penalties or interest col-
22 lected. The county shall enforce the collection of assessments in the same
23 manner as it enforces the collection of taxes of the county, and failure to
24 pay the assessment shall be subject to the same penalties. The collection of
25 a ground water district's assessments by the county treasurer shall not make
26 the district's obligations respecting any bond, contract, debt, or interest
27 the obligation of the county.

28 (2) District assessments levied pursuant to subsection (5) or (6) of
29 section 42-5232, Idaho Code, shall be billed and collected in one (1) of the
30 ways as provided in subsection (1) of this section, provided that assess-
31 ments billed and collected pursuant to subsection (1) (a) of this section may
32 be mailed at any time of the year and shall be due and payable within thirty
33 (30) days after mailing.