

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 642

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2717, IDAHO
2 CODE, TO REMOVE A DEFINITION; AMENDING SECTION 22-2718, IDAHO CODE, TO
3 REVISE PROVISIONS REGARDING THE SOIL AND WATER CONSERVATION COMMIS-
4 SION; REPEALING SECTION 22-2719, IDAHO CODE, RELATING TO THE CREATION
5 OF SOIL CONSERVATION DISTRICTS; AMENDING SECTION 22-2721, IDAHO CODE,
6 TO REVISE PROVISIONS REGARDING SUPERVISORS; AMENDING SECTION 22-2726,
7 IDAHO CODE, TO REMOVE A CODE REFERENCE; AND DECLARING AN EMERGENCY AND
8 PROVIDING AN EFFECTIVE DATE.
9

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

11 SECTION 1. That Section 22-2717, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 22-2717. DEFINITIONS. Whenever used or referred to in this chapter,
14 unless a different meaning clearly appears from the context:

15 (1) "Administrator" means the administrator for the Idaho state soil
16 and water conservation commission.

17 (2) "Agency" includes the government of this state and any subdivision,
18 agency, or instrumentality, corporate or otherwise, of the government of
19 this state.

20 (3) "Agricultural pollution abatement plan" or "ag plan" means the
21 document developed by the state soil and water conservation commission and
22 approved by the commission and the department of environmental quality,
23 that provides appropriate technical, programmatic, informational and ed-
24 ucational processes, guidelines and policies for addressing agricultural
25 pollution.

26 (4) "Best management practices" or "BMPs" means practices, techniques,
27 or measures developed or identified by the designated agency and identified
28 in the state water quality management plan which are determined to be a cost-
29 effective and practicable means of preventing or reducing pollutants gener-
30 ated from nonpoint sources to a level compatible with water quality goals.

31 (5) "Commission" or "state soil and water conservation commission"
32 means the agency created in section 22-2718, Idaho Code.

33 (6) "Conservation plan" means a description of identified natural re-
34 source issues and a specific schedule of implementation of component prac-
35 tices necessary to resolve those specific resource issues as agreed upon by
36 the landowner.

37 (7) "Designated agency" is as defined in section 39-3602, Idaho Code.

38 (8) "District," "conservation district," "soil conservation dis-
39 trict," or "soil and water conservation district" means a governmental
40 subdivision(s) of this state, and a public body corporate and politic, orga-
41 nized in accordance with the provisions of this chapter, for the purposes,
42 with the powers and subject to the restrictions hereinafter set forth.

1 (9) "Due notice" means notice published at least twice, with an inter-
2 val of at least seven (7) days between the two (2) publication dates, in a
3 newspaper or other publication of general circulation within the appropri-
4 ate area, or if no such publication of general circulation be available, by
5 posting at a reasonable number of conspicuous places within the appropri-
6 ate area, such posting to include, where possible, posting at public places
7 where it may be customary to post notices concerning county or municipal af-
8 fairs generally. At any hearing held pursuant to such notice, at the time and
9 place designated in such notice, adjournment may be made from time to time
10 without the necessity of renewing such notice for such adjournment dates.

11 (10) "Eligible applicant" means an individual agricultural owner, op-
12 erator, partnership, corporation, conservation district, irrigation dis-
13 trict, canal company or other agricultural or grazing interest.

14 (11) "Government" or "governmental" includes the government of this
15 state, the government of the United States, and any subdivisions, agency, or
16 instrumentality, corporate or otherwise, of either of them.

17 (12) "Idaho OnePlan" means a computer-based system for improving effi-
18 ciency and effectiveness of natural resource planning by landowners and land
19 users.

20 (13) "Landowner" or "owner" includes any person, firm, or corporation
21 who shall hold title to any lands lying within a district organized under the
22 provisions of this chapter. A buyer on contract, who is the occupier of land,
23 shall be construed as landowner.

24 (14) "Land user" means any entity with a lease, permit or similar busi-
25 ness agreement with a landowner to implement, manage or utilize such land for
26 activities related to use of the land.

27 (15) "Natural resources conservation service" or "NRCS" means the
28 agency governed by the provisions of 16 U.S.C. sections 590a through 590d and
29 590f.

30 (16) "Nominating petition" means a petition filed under the provisions
31 of section 22-2721, Idaho Code, to nominate candidates for the office of su-
32 pervisor of a soil conservation district.

33 (17) "Participant" means an individual agricultural owner, operator,
34 partnership, private corporation, conservation district, irrigation dis-
35 trict, canal company, or other agricultural or grazing interest approved by
36 the commission or an individual agricultural owner, operator, partnership,
37 or private corporation approved for implementation of conservation improve-
38 ments, projects, or the water quality program for agriculture.

39 ~~(18) "Petition" means a petition filed under the provisions of subsec-~~
40 ~~tion (1) of section 22-2719, Idaho Code, for the creation of a district.~~

41 ~~(19) "Project sponsor" means a conservation district, irrigation~~
42 ~~district, canal company, or other agricultural or grazing interest, as~~
43 ~~determined appropriate by the commission, that enters into a conservation~~
44 ~~improvement or water quality project agreement with the commission.~~

45 ~~(2019) "Qualified elector" means any person who is qualified to vote~~
46 ~~pursuant to the requirements of section 34-104, Idaho Code.~~

47 ~~(210) "Riparian land" means the beds of streams, the adjacent vegeta-~~
48 ~~tion communities and the land thereunder, which are predominately influ-~~
49 ~~enced by their association with water and are privately owned.~~

1 (221) "Specifications" means the materials, operations and procedures
2 necessary to obtain the desired standards of construction and installation.

3 (232) "Standards" means the minimum limits of technical excellence of a
4 component practice for its planning, design and construction.

5 (243) "State" means the state of Idaho.

6 (254) "Supervisor" means one (1) of the members of the governing body
7 of a district elected or appointed in accordance with the provisions of this
8 chapter.

9 (265) "Total maximum daily load" is as defined in section 39-3602, Idaho
10 Code.

11 (276) "United States" or "agencies of the United States" includes the
12 United States of America, the natural resources conservation service of the
13 United States department of agriculture, and any other agency or instrumen-
14 tality, corporate or otherwise, of the United States of America.

15 SECTION 2. That Section 22-2718, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 22-2718. IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION. (1)
18 There is hereby established and created in the department of agriculture of
19 the state of Idaho the Idaho state soil and water conservation commission
20 which shall perform all functions conferred upon it by this chapter and shall
21 be a nonregulatory agency. ~~The commission shall consist of five (5) members~~
22 ~~appointed by the governor. In appointing commission members, the governor~~
23 ~~shall give consideration to geographic representation. Commission members~~
24 ~~shall be chosen with due regard to their demonstrated expertise including,~~
25 ~~but not limited to, knowledge of and interest in water quality and other~~
26 ~~natural resource issues, production agriculture, banking or other similar~~
27 ~~financial experience or experience as a county commissioner. The soil and~~
28 ~~water conservation districts may submit to the governor a list of up to three~~
29 ~~(3) names for each vacancy on the commission and the governor may, in his~~
30 ~~discretion, consider any such submission in the appointment of commission~~
31 ~~members. The term of office of each commission member shall be five (5)~~
32 ~~years; except that upon July 1, 2010, the governor shall appoint one (1)~~
33 ~~member for a term of one (1) year, one (1) member for a term of two (2) years,~~
34 ~~one (1) member for a term of three (3) years, one (1) member for a term of four~~
35 ~~(4) years and one (1) member for a term of five (5) years. From and after the~~
36 ~~initial appointment the governor shall appoint a member of the commission to~~
37 ~~serve in office for a term of five (5) years commencing upon July 1 of that~~
38 ~~year. A vacancy which occurs in an unexpired term shall be filled for its re-~~
39 ~~mainder by the governor's appointment. Each vacancy on the commission shall~~
40 ~~be filled by appointment by the governor. Such appointments shall be con-~~
41 ~~firmed by the senate. Commission members shall serve at the pleasure of the~~
42 ~~governor. The commission may invite the state conservationist of the United~~
43 ~~States department of agriculture natural resources conservation service, a~~
44 ~~representative from a district or districts and the dean of the college of~~
45 ~~agriculture of the university of Idaho or his designated representative,~~
46 ~~or any other person or entity as the commission deems appropriate, to serve~~
47 ~~as nonvoting advisory members of the commission. The commission shall keep~~
48 ~~a record of its official actions, shall adopt a seal, which seal shall be~~
49 ~~judicially noticed, and may perform such acts, hold such public hearings and~~

1 ~~promulgate such rules as may be necessary for the execution of its functions~~
2 ~~under this chapter.~~

3 (a) The commission shall consist of seven (7) members appointed by the
4 governor from divisions of the Idaho association of soil conservation
5 districts as follows: one (1) member from division I, one (1) member
6 from division II, one (1) member from division III, one (1) member from
7 division IV, one (1) member from division V, one (1) member from divi-
8 sion VI, and one (1) at-large member appointed at the governor's discre-
9 tion.

10 (b) Commission members shall be chosen with due regard to their demon-
11 strated expertise, including knowledge of conservation districts and
12 their functions, knowledge of production agriculture, knowledge of
13 banking or other similar financial experience, or experience as a
14 county commissioner.

15 (c) Commissioners serving on July 1, 2022, will be assigned to the di-
16 visions that they would represent. On July 1, 2022, current commission-
17 ers, at the will of the governor, will be reappointed to the position
18 representing the divisions in which they live.

19 (d) For divisions that have vacant positions, or divisions with no cur-
20 rent commissioner residing there, the division shall submit a list of
21 up to three (3) names for each open commission position. The governor
22 shall appoint commission seats from the list submitted.

23 (e) The term of each commissioner shall be for five (5) years, with the
24 ability to serve two (2) terms; except that on July 1, 2022, the terms of
25 each commission position will be reset: The term of the commissioners
26 from districts I and IV will be set for two (2) years. The term of the
27 commissioners from districts II and V will be set for three (3) years.
28 The term of the commissioners from districts III and VI and the at-large
29 commissioner will be set for four (4) years. From and after the initial
30 appointment or reappointment, commissioners may serve two (2) full
31 terms of five (5) years, in addition to their initial appointment. From
32 and after the initial appointment, the corresponding division shall
33 provide the list of three (3) names to the governor to choose from on or
34 before July 1 of each year with a vacancy.

35 (f) Each vacancy on the commission shall be filled by appointment by
36 the governor following the guidelines set forth in this subsection. A
37 vacancy that occurs in an unexpired term shall also be filled for its
38 remainder by the governor's appointment following the guidelines set
39 forth in this subsection. Each commissioner appointed to fill an unex-
40 pired term may serve the length of the unexpired term and be eligible to
41 be reappointed for an additional two (2) full terms.

42 (g) All appointments shall be confirmed by the senate. Commission mem-
43 bers shall serve at the pleasure of the governor. The commission may in-
44 voke the state conservationist of the United States department of agri-
45 culture natural resources conservation service, the dean of the uni-
46 versity of Idaho college of agricultural and life sciences or his des-
47 ignated representative, or any other person or entities the commission
48 deems appropriate to serve as nonvoting advisory members of the commis-
49 sion. The commission shall keep a record of its official actions, shall
50 adopt a seal, which seal shall be judicially noticed, and may perform

1 such acts, hold such public hearings, and promulgate such rules as may
2 be necessary for the execution of its functions under this chapter.

3 (2) The state soil and water conservation commission shall appoint
4 the administrator of the state soil and water conservation commission. The
5 state soil and water conservation commission may employ such technical ex-
6 perts and such other agents and employees, permanent and temporary, as it
7 may require, and shall determine their qualifications, duties and compen-
8 sation. The commission may call upon the attorney general of the state for
9 such legal services as it may require. It shall have authority to delegate to
10 its chairman, to one (1) or more of its members, or to one (1) or more agents
11 or employees, such powers and duties as it may deem proper. The commission
12 may establish offices, incur expenses, enter into contracts and acquire
13 services and personal property as may be reasonable for the proper adminis-
14 tration and enforcement of this chapter. Upon request of the commission, for
15 the purpose of carrying out any of its functions, the supervising officer of
16 any state agency, or of any state institution of learning, shall insofar as
17 may be possible under available appropriation, and having due regard to the
18 needs of the agency to which the request is directed, assign or detail to the
19 commission members of the staff or personnel of such agency or institution of
20 learning, and make such special reports, surveys or studies as the commis-
21 sion may request.

22 (3) The commission shall designate its chairman, and may from time to
23 time, change such designation. A majority of the commission shall consti-
24 tute a quorum and the concurrency of a majority in any matter within their
25 duties shall be required for its determination. The chairman and members of
26 the commission shall be compensated as provided by section 59-509(h), Idaho
27 Code. The commission shall provide for the execution of surety bonds for
28 all employees and officers who shall be entrusted with funds or property;
29 shall provide for the keeping of a full and accurate record of all proceed-
30 ings and of all resolutions, and orders issued or adopted; and shall provide
31 for a periodic management review of the accounts of receipts and disburse-
32 ments as determined by the legislative auditor pursuant to section 67-702,
33 Idaho Code.

34 (4) In addition to the duties and powers hereinafter conferred upon the
35 state soil and water conservation commission, it shall have the following
36 responsibilities:

37 (a) To offer such assistance as may be appropriate to the supervisors of
38 soil conservation districts in the carrying out of any of their powers
39 and programs.

40 (b) To keep the supervisors of each of the several soil conservation
41 districts informed of the activities and experience of all other soil
42 conservation districts and to facilitate an interchange of advice and
43 experience between such districts and cooperation between them.

44 (c) To coordinate the progress of the several soil conservation dis-
45 tricts so far as this may be done by advice and consultation.

46 (d) To secure the cooperation and assistance of the United States and
47 any of its agencies, and of agencies of this state, in the work of such
48 districts.

1 (e) To disseminate information throughout the state concerning the ac-
2 tivities and programs of the soil conservation districts in areas where
3 their organization is desirable.

4 (f) To provide for the establishment and encouragement of the "Idaho
5 OnePlan" as a primary computer-based conservation planning process for
6 all natural resource concerns. Establishment and encouragement will
7 be accomplished through an executive group and steering committee both
8 containing private, state and federal representation. The information
9 provided by those using the "Idaho OnePlan" shall be deemed to be trade
10 secrets, production records or other proprietary information and shall
11 be kept confidential and shall be exempt from disclosure pursuant to
12 section 74-107, Idaho Code.

13 (5) In addition to other powers, functions and duties of soil conserva-
14 tion districts and the state soil and water conservation commission provided
15 in this chapter, the commission shall have the following additional powers,
16 functions and duties:

17 (a) The commission shall conduct, in cooperation with appropriate fed-
18 eral and state agencies and the owners and operators of privately owned
19 forest lands, rangelands and agricultural lands in this state, conser-
20 vation improvements on or in respect to these lands for the purposes of
21 implementing conservation systems to conserve and improve natural re-
22 source conditions;

23 (b) The commission shall assist and advise soil conservation districts
24 and other entities in implementing the conservation improvements,
25 projects and the water quality program for agriculture. To the extent
26 that there are available general funds, the commission shall provide
27 for grants and cost-share opportunities and, as legislatively desig-
28 nated, utilize the resource conservation and rangeland development
29 fund for loans for conservation improvements. Provided however, that
30 the commission shall determine whether general or resource conserva-
31 tion and rangeland development funds are available before approving any
32 conservation improvements, projects and cost-share opportunities and,
33 after having made such determination, shall enter into the necessary
34 contracts for implementation;

35 (c) The commission shall be the agency responsible for the administra-
36 tion of funds accruing to the resource conservation and rangeland de-
37 velopment fund and for all general funds appropriated as a separate and
38 distinct action of the legislature to implement the powers, functions
39 and duties of soil conservation districts and the commission;

40 (d) On or before March 1 of each year, the commission shall report to the
41 senate agricultural affairs committee and the house agricultural af-
42 fairs committee; and

43 (e) The commission shall promulgate such rules as are necessary to
44 carry out the purposes of this chapter.

45 SECTION 3. That Section [22-2719](#), Idaho Code, be, and the same is hereby
46 repealed.

47 SECTION 4. That Section 22-2721, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPER-
2 VISORS. (1) The governing body of the district shall consist of five (5)
3 supervisors, elected or appointed as provided in this chapter. Elections
4 shall be conducted pursuant to the provisions of this section and the uni-
5 form district election law, chapter 14, title 34, Idaho Code. If at any
6 time the supervisors of a district deem it necessary, upon majority vote
7 of the district board, they may ~~request permission from the state soil and~~
8 ~~water conservation commission to~~ increase the number of supervisors to
9 seven (7). ~~Upon receipt of such a request in writing, signed by all five~~
10 ~~(5) supervisors, stating a valid reason for such need, the commission shall~~
11 ~~grant permission. The~~ or decrease the number of supervisors to five (5). If
12 increased, the additional supervisors shall then be appointed as outlined
13 in this section until such time as regular district elections for two (2)
14 supervisors in each district. At that time those districts having seven (7)
15 supervisors shall then elect four (4) supervisors for four (4) year terms.
16 The two (2) supervisors appointed by the district shall be persons who are by
17 training and experience qualified to perform the specialized services which
18 will be required of them in the performance of their duties. All supervisors
19 shall be landowners or farmers of the district where they are elected or ap-
20 pointed and shall be registered to vote in the state of Idaho.

21 (2) Within thirty (30) days after the date of issuance by the secretary
22 of state of a certificate of organization of a soil conservation district,
23 nominating petitions may be filed with the state soil and water conservation
24 commission to nominate candidates for supervisors of each district. The
25 county clerk shall conduct the election for the district in compliance with
26 chapter 14, title 34, Idaho Code, and shall be the election official for the
27 district. The election official shall have authority to extend the time
28 within which nominating petitions may be filed. Nominating petitions shall
29 be filed with the secretary of the district, and no such nominating petition
30 shall be accepted by the election official unless it shall be subscribed
31 by not less than five (5) persons who are qualified electors owning land or
32 residing within the boundaries of the district. The election official shall
33 give due notice of an election to be held, subject to the provisions of sec-
34 tion 34-106, Idaho Code, for the election of three (3) supervisors for the
35 district. The names of all nominees on behalf of whom such nominating pe-
36 titions have been filed within the time herein designated shall appear upon
37 ballots, with directions to choose three (3) names to indicate the voter's
38 preference. The three (3) candidates who shall receive the largest number,
39 respectively, of the votes cast in such election shall be the elected super-
40 visors for such district.

41 (3) All elections in districts shall be conducted by the county clerk.
42 Such election shall be held on the first Tuesday succeeding the first Monday
43 of November in each even-numbered year. Such elections shall be in compli-
44 ance with the provisions of chapter 14, title 34, Idaho Code, and shall be
45 supervised and conducted by the county clerk. The cost of conducting such
46 elections shall be borne by the county that conducted the election. The
47 county clerk shall certify to the soil and water conservation district the
48 names of the elected supervisors. The soil and water conservation district
49 shall issue certificates of election to each elected supervisor so certi-
50 fied. The county clerk or county clerks of the county or counties in which

1 the district is located shall conduct the election for the soil conservation
2 district, and the county clerk must provide a ballot for the district elec-
3 tion and must provide a process that allows only qualified electors of the
4 district to vote in that district's election.

5 (4) In any election for supervisor, if after the deadline for filing
6 a declaration of intent as a write-in candidate, it appears that the num-
7 ber of qualified candidates who have been nominated is equal to the number
8 of supervisors to be elected, it shall not be necessary for the candidates to
9 stand for election, and the board of supervisors shall declare such candi-
10 dates elected as supervisors, and the soil and water conservation district
11 shall immediately make and deliver to such persons certificates of election.

12 (5) The supervisors shall designate a chairman and may, from time to
13 time, change such designation. The term of office of each supervisor shall
14 be four (4) years commencing on the first day of January next following elec-
15 tion, except that the two (2) supervisors who are first appointed shall be
16 designated to serve for terms of two (2) years. A supervisor shall hold of-
17 fice until a qualified successor has been elected or appointed. Vacancies
18 shall be filled for the unexpired term. The selection of successors to fill
19 an unexpired term, or for a full term shall be made by a vote of the majority
20 of the supervisors duly qualified and acting at the time the vacancy shall
21 arise and the supervisors shall certify the name of the appointed supervisor
22 to the state soil and water conservation commission. The soil conservation
23 district shall issue a certificate of such appointment.

24 (6) A majority of the supervisors shall constitute a quorum and the
25 concurrence of a majority in any matter within their duties shall be required
26 for its determination. A supervisor shall be entitled to expenses, in-
27 cluding travel expense, necessarily incurred in the discharge of duties. A
28 supervisor shall receive no compensation for services from regular district
29 funds, county funds authorized in section 22-2726, Idaho Code, or state
30 funds authorized in section 22-2727, Idaho Code.

31 (7) In the event the district has a special project, approved by the
32 state soil and water conservation commission, making project funds avail-
33 able from federal or other sources, a supervisor may receive compensation
34 not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary
35 expenses from project funds for services directly related to the project.

36 (8) The supervisors may employ a secretary, technical experts, and such
37 other officers, agents, and employees, permanent and temporary as they may
38 require, and shall determine their qualifications, duties and compensation.
39 The supervisors may call upon the attorney general of the state for such le-
40 gal services as they may require or may employ their own counsel and legal
41 staff. The supervisors may delegate to their chairman, to one (1) or more
42 supervisors, or to one (1) or more agents, or employees, such powers and du-
43 ties as they may deem proper. The supervisors shall furnish to the state soil
44 and water conservation commission, upon request, copies of such ordinances,
45 rules, orders, contracts, forms and other documents as they shall adopt or
46 employ, and such other information concerning the supervisors' activities
47 as the commission may require in the performance of the commission's duties
48 under this chapter.

49 (9) The supervisors shall provide for the execution of surety bonds for
50 all employees and officers who shall be entrusted with funds or property;

1 they shall provide for the keeping of a full and accurate record of all pro-
2 ceedings and of all resolutions, and orders issued or adopted; and shall pro-
3 vide for independent financial audits in accordance with the provisions of
4 section 67-450B, Idaho Code. Supervisors shall be subject to recall in ac-
5 cordance with the provisions of chapter 17, title 34, Idaho Code.

6 (10) The supervisors may invite the legislative body of a municipality
7 or county located near the territory comprised within the district to desig-
8 nate a representative to advise and consult with the supervisors of the dis-
9 trict on all questions of program and policy which may affect the property,
10 water supply, or other interests of such municipality or county.

11 SECTION 5. That Section 22-2726, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 22-2726. FUNDS OR ASSISTANCE PROVIDED BY COUNTY FROM COUNTY GENERAL
14 FUND. In those counties of Idaho wherein all or a substantial part of the
15 county has been created and is operating as a soil conservation district or
16 districts under the provisions of chapter 27, title 22, ~~section 22-2719,~~
17 ~~Idaho Code,~~ or any amendment thereto, the board of county commissioners may,
18 from time to time, at their discretion and upon request of the supervisors
19 of such soil conservation districts provide in their budget a sufficient
20 amount of money from the county general fund for allocation to the districts
21 to be used by the districts for any purposes authorized by law, or in lieu
22 of such allocation the county commissioners at their discretion may assign
23 or hire an employee or employees of the county to assist the supervisors in
24 the performance of the work of their office. The duties of such employee or
25 employees shall be under the direct supervision of the supervisors of each
26 soil conservation district.

27 SECTION 6. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after
29 July 1, 2022.