

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 467

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1
2 RELATING TO GROUND WATER DISTRICTS; AMENDING SECTION 42-5232, IDAHO CODE,
3 TO REVISE A PROVISION REGARDING CERTAIN SPECIAL ASSESSMENTS AND TO MAKE
4 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
5 FECTIVE DATE.

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

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

9 42-5232. LEVY OF ASSESSMENTS. (1) The secretary of the board shall be
10 the assessor of the district, and, on or before August 1 of each year, shall
11 prepare an assessment book containing a full and accurate list of all lands
12 within the district that are subject to assessment under this chapter.

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

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

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

34 (5) If, after levying the regular assessments described in this sec-
35 tion, the board determines that the money held in such fund is inadequate or
36 prior to the next regular assessment is likely to become inadequate to pay
37 the expenses for which such fund exists, the board may levy an emergency as-
38 sessment to pay such additional expenses; provided, that the board shall, at
39 least fourteen (14) days prior to the meeting at which the board determines
40 the amount necessary to pay such expenses, mail written notice of the board's
41 intent to levy an emergency assessment to each member of the district at the
42 address on file with the district.

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

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

14 (8) No assessment made pursuant to this chapter shall be a lien against
15 any municipal property.

16 (9) Except as otherwise provided in this chapter, each member shall pay
17 a proportionate share of the total of all amounts to be assessed for the pur-
18 poses aforementioned, which share shall be based on (a) the ratio ~~which~~ that
19 the quantity of water the member is authorized to divert under the member's
20 ground water right(s) bears to the total quantity of water authorized for
21 diversion under the ground water rights of all members of the district, or
22 (b) the ratio ~~which~~ that the number of acres the member is authorized to ir-
23 rigate under the member's ground water right bears to the total number of
24 acres authorized for irrigation under the ground water rights of all members
25 of the district; provided, that the board shall be entitled to levy assess-
26 ments that adjust a member's proportionate share to take into consideration
27 priority dates, consumptive use under the members' respective ground water
28 rights, other attributes of the ground water rights appurtenant to the as-
29 sessed lands, and/or the benefits the member derives from a mitigation plan
30 or other activity of the district. Any nonirrigator who is a member of a
31 ground water district, or whose ground water rights are appurtenant to prop-
32 erty located within a ground water district, and who has adopted and imple-
33 mented a mitigation plan that has been approved by the director and that is
34 not inconsistent with such a plan approved by the director and adopted and
35 implemented by the ground water district, shall be entitled to an assessment
36 credit for the contribution made by that nonirrigator's mitigation plan to-
37 ward the district's mitigation obligation as determined by the director.

38 SECTION 2. An emergency existing therefor, which emergency is hereby
39 declared to exist, this act shall be in full force and effect on and after
40 July 1, 2024.