

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 119

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FLOOD CONTROL DISTRICTS; AMENDING SECTION 42-3106, IDAHO CODE,
2 TO CLARIFY THE ENTITIES THE DIRECTOR MAY CONSULT WITH REGARDING PETI-
3 TIONS FOR PROPOSED DISTRICTS AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
4 ING SECTION 42-3109, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE
5 INITIAL BOARD OF COMMISSIONERS, APPOINTMENT OF COMMISSIONERS, QUALI-
6 FICATION OF COMMISSIONERS, BONDS, OATHS, AND ORGANIZATION OF COMMIS-
7 SIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3111,
8 IDAHO CODE, TO PROVIDE FOR ANNUAL APPOINTMENTS BY THE BOARD, TO PROVIDE
9 FOR NOTIFICATION TO THE DIRECTOR, TO PROVIDE FOR QUALIFICATIONS, OATHS,
10 AND BONDS, TO PROVIDE FOR APPOINTMENT AT-LARGE UNDER CERTAIN CIRCUM-
11 STANCES, TO PROVIDE FOR VACANCIES, TO PROVIDE FOR REMOVAL, AND TO MAKE
12 TECHNICAL CORRECTIONS; AMENDING SECTION 42-3112, IDAHO CODE, TO PRO-
13 VIDE FOR FILLING OF VACANCIES BY THE BOARD, TO PROVIDE FOR APPOINTMENT
14 AT-LARGE UNDER CERTAIN CIRCUMSTANCES, TO PROVIDE FOR APPOINTMENT BY THE
15 DIRECTOR UNDER CERTAIN CIRCUMSTANCES, AND TO MAKE A TECHNICAL CORREC-
16 TION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
17

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

19 SECTION 1. That Section 42-3106, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 42-3106. DIVISION OF DISTRICT -- MAPS AND SURVEYS. (1) The director
22 shall examine said petition and, if it is found to be in accordance with the
23 requirements here set forth, shall, without delay, proceed and examine all
24 matters named and referred to in said petition and make such surveys of the
25 territory to be ~~effected~~ affected by the proposed district, as will enable
26 him to fully determine whether the same is necessary, practicable or feasi-
27 ble and shall prepare a report of his findings. For the purpose of making his
28 findings, the director may advise and consult with any local governmental
29 subdivision, ~~including the officers and agents of any~~ irrigation district,
30 drainage district, canal company, or any individual water user who is not a
31 member of any such company, who or which may be interested in, or affected by,
32 the proposed district.

33 (2) The director shall prepare a map of the proposed district and shall
34 divide the proposed district into not less than three (3) ~~7~~ nor more than nine
35 (9) divisions so as to provide adequate representation to all of the inter-
36 ests within said district.

37 SECTION 2. That Section 42-3109, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 42-3109. ~~BOARD MEMBERS -- APPOINTMENT -- BOND OF COMMISSIONERS -- OATH~~
40 ~~-- REMOVAL~~ INITIAL BOARD OF COMMISSIONERS -- APPOINTMENT -- QUALIFICATION --

1 BOND -- OATH -- ORGANIZATION. (1) The order of the director organizing said
 2 district shall name the initial members of the district board of commission-
 3 ers without regard to political affiliation. Each division of the district
 4 shall be represented by one (1) commissioner ~~who~~. Each initial commissioner
 5 shall be a qualified voter elector pursuant to section 42-3118, Idaho Code,
 6 and shall reside within the division which he represents, ~~and a resident and~~
 7 ~~qualified elector of the county in which he resides.~~

8 (2) ~~The members of the board of the district, appointed as aforesaid,~~
 9 ~~Each appointed commissioner shall be entitled to enter upon the duties of~~
 10 ~~their his office upon qualification as county officers are required to qual-~~
 11 ~~ify, and upon each commissioner giving taking the oath of office as provided~~
 12 ~~for in section 59-401, Idaho Code, and filing a bond to the state for the ben-~~
 13 ~~efit of said district for the faithful performance of his the commissioner's~~
 14 ~~duties as such commissioner in the sum of.~~ The amount of the bond shall be
 15 five thousand dollars (\$5,000) with one (1) or more sureties, or a surety
 16 bond, the premium for which shall be a lawful expenditure of the district,
 17 either of which shall be approved by the judge of the district court wherein
 18 the commissioner resides; provided, the judge of the district court, upon
 19 application and proper showing by the board, may enter an order reducing
 20 the amount of the bond to such sum as may appear to him to be reasonable and
 21 adequate under the showing made. The commissioners shall take the oath of
 22 office and file their bonds within fifteen (15) days after they are appointed
 23 and they shall hold office until their successors are duly appointed and
 24 qualified as in this act provided. The bonds of the initial commissioners
 25 shall be filed with the clerk of the district court of the county in which
 26 the office of the district is located and kept in trust by said clerk of the
 27 district court.

28 (3) Immediately after their appointment and the filing and approval of
 29 their bonds, the commissioners shall organize themselves into a board, as
 30 in this act provided, and shall by lot determine the terms of their office,
 31 which shall be one (1), two (2) and three (3) years, respectively. ~~Annually~~
 32 ~~thereafter the director shall appoint the commissioner, or commissioners,~~
 33 ~~to succeed those whose terms of office are expiring. Such appointments shall~~
 34 ~~be for three (3) years, provided that each division of the district shall be~~
 35 ~~represented by one (1) commissioner who shall be a qualified voter within the~~
 36 ~~division which he represents, and a resident and qualified elector of the~~
 37 ~~county in which he resides.~~

38 ~~The director may remove a commissioner for neglect of duty, misconduct~~
 39 ~~or malfeasance or inability to perform the duties of a commissioner, or~~
 40 ~~if the commissioner is no longer a resident of the division from which ap-~~
 41 ~~pointed. The director may appoint a successor for the unexpired term.~~

42 SECTION 3. That Section 42-3111, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 ~~42-3111. COMMISSIONERS -- ANNUAL APPOINTMENT -- OFFICERS' ELECTION~~
 45 ~~-- DUTIES BOARD OF COMMISSIONERS -- ANNUAL APPOINTMENT -- QUALIFICATION~~
 46 ~~-- OATH -- BOND -- OFFICERS' ELECTION -- DUTIES -- TERM OF OFFICE -- RE-~~
 47 ~~MOVAL. Annually on the same day the district was organized the director~~
 48 ~~shall appoint a commissioner or commissioners whose term expires. Each com-~~
 49 ~~missioner thereafter who may be appointed shall qualify by taking the oath~~

1 ~~and filing a bond which shall be approved in the same manner as provided in~~
2 ~~section 42-3109 of this act (1) Annually after the director's order organiz-~~
3 ~~ing the district and appointing the initial members of the district board~~
4 ~~of commissioners, the board shall appoint or reappoint the commissioner or~~
5 ~~commissioners to succeed those whose terms of office are expiring and shall~~
6 ~~notify the director of such appointments. The director may make such ap-~~
7 ~~pointments if the board fails to do so. Appointments shall be for three (3)~~
8 ~~years, provided that each division of the district shall be represented by~~
9 ~~one (1) commissioner. Each commissioner appointed pursuant to this section:~~

10 (a) Shall be a qualified elector of the district pursuant to section
11 42-3118, Idaho Code, and a resident of the division he represents, ex-
12 cept that, in the event the board is unable to appoint a resident of the
13 division, the board may appoint a person at-large who is a qualified
14 elector of the district; and

15 (b) Shall qualify by taking the oath and filing a bond that meets the
16 requirements of section 42-3109, Idaho Code, with either the clerk of
17 the district court of the county in which the office of the district is
18 located or with the secretary of the board.

19 (2) Upon the initial organization and annually thereafter on the same
20 date, the board shall organize, by the election of one (1) of their number as
21 chairman, and one (1) of their number as vice chairman. They shall elect, or
22 appoint a secretary, who may, or may not, be a member of the board. They shall
23 elect, or appoint a treasurer, who may, or may not, be a member of the board.

24 (3) The chairman shall preside at all meetings, sign all claims, except
25 his own, which shall be signed by the vice chairman, sign all warrants in pay-
26 ment of claims, after the submission of such claims and thus approved by the
27 board, and such other duties as shall be required of him by law, or prescribed
28 by the board.

29 (4) The vice chairman, in the absence of the chairman, shall have the
30 same powers and duties as the chairman.

31 (5) The secretary of the board shall have the duties as are prescribed
32 by the board. He shall attend all meetings of the board, shall keep a record
33 of the proceedings, and shall enter in said record all matters required
34 by law, or by the board, so to be entered; and said record shall be open to
35 inspection by any person at all reasonable times. In the absence of the
36 secretary, the board shall appoint some person, who, as acting secretary,
37 shall keep the record of the proceedings of the board and certify the same
38 to the secretary, and the board. Whenever in the discretion of the board,
39 it is deemed advisable to do so, the secretary may be placed under surety
40 (fidelity) bond, in the manner and in the amount which shall be prescribed by
41 the board.

42 (6) The treasurer appointed, or elected, by the board shall have such
43 duties as the board may prescribe. He shall be placed under a surety (fi-
44 delity) bond issued by a surety company authorized to do business in the
45 state, in such an amount as the board from time to time may determine. The
46 treasurer shall keep a complete and accurate record of all of the financial
47 affairs of the district and shall deposit all moneys of the district in the
48 designated depository ordered by the board, and shall comply with the public
49 depository law as now appearing, or as it may be amended.

1 (7) Commissioners shall hold office until they vacate their office
2 through death, resignation, failure to meet the qualification requirements
3 of this section, or removal by the director or until their successors are
4 duly appointed and qualified as provided in this chapter.

5 (8) The director may remove a commissioner for neglect of duty, miscon-
6 duct or malfeasance, or inability to perform the duties of a commissioner.

7 SECTION 4. That Section 42-3112, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 42-3112. VACANCIES ON BOARD -- APPOINTMENT BY ~~DIRECTOR~~ BOARD. If
10 ~~vacancies occur in said board~~ there is a vacancy of any commissioner posi-
11 tion through death, resignation, or failure to qualify of one (1) or more of
12 the commissioners, meet the qualification requirements of section 42-3111,
13 Idaho Code, or removal by the director, such vacancy shall be filled by ap-
14 pointment by the director and said remaining members or member of the board.
15 Said appointee shall be from a resident of the same division of the district
16 as the commissioner whom he is replacing, and shall serve for the unexpired
17 term, or until his successor is appointed and qualified, except that, in
18 the event the board is unable to appoint a resident of the division vacated,
19 the board may appoint a person at-large who is a qualified elector of the
20 district pursuant to section 42-3118, Idaho Code, to serve as commissioner
21 of the division where the vacancy occurred. If the board fails to fill a va-
22 cancy, or if there are no members of the board due to vacancies, the director
23 may make such appointments to represent each division of the district.

24 SECTION 5. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after
26 July 1, 2023.