

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 166

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO IRRIGATION DISTRICTS; AMENDING SECTION 43-322, IDAHO CODE, TO
2 REVISE PROVISIONS RELATING TO THE INCURSION OF DEBT BY A DISTRICT AND TO
3 REVISE THE MAXIMUM TERM OF INDEBTEDNESS; AND AMENDING CHAPTER 3, TITLE
4 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-322A, IDAHO CODE, TO
5 PROVIDE FOR RESOLUTIONS FOR THE DEVELOPMENT AND OPERATION OF MITIGATION
6 PLANS AND RECHARGE PROJECTS, TO PROVIDE THAT THE AMOUNT OF OBLIGATION
7 OR CONTRACT INDEBTEDNESS PROPOSED TO BE ISSUED BE SET FORTH, TO PROVIDE
8 THAT THE CONTRACT INDEBTEDNESS IN A PROPOSED RESOLUTION BE SUBMITTED
9 TO A VOTE IF CERTAIN CONDITIONS ARE MET, TO PROVIDE FOR ELECTIONS, TO
10 PROVIDE FOR THE CONTENT OF RESOLUTIONS, TO PROVIDE CRITERIA WHEREBY
11 THE DISTRICT SHALL BE AUTHORIZED TO INCUR INDEBTEDNESS OR OBLIGATIONS
12 OR ENTER INTO CERTAIN CONTRACTS, TO PROVIDE THAT CERTAIN ACTION SHALL
13 BE SUBJECT TO JUDICIAL EXAMINATION, TO PROVIDE THAT SUBMISSION OF THE
14 PROPOSITION OF INCURRING OBLIGATION OR OTHER INDEBTEDNESS AT AN ELEC-
15 TION SHALL NOT PREVENT SUBMISSION OF THE SAME OR OTHER PROPOSITIONS AT
16 SUBSEQUENT ELECTIONS, TO PROVIDE FOR PETITIONS FOR JUDICIAL EXAMINA-
17 TION, TO PROVIDE FOR CONTENT OF PETITION, TO PROVIDE THAT OTHER DIS-
18 TRICTS MAY JOIN IN THE FILING OF PETITIONS, TO PROVIDE FOR JURISDICTION
19 OF THE COURT, TO PROVIDE FOR JUDICIAL EXAMINATION AND DETERMINATION
20 OF SPECIFIED MATTERS, TO PROVIDE FOR NOTICE, TO PROVIDE FOR ANSWERS TO
21 PETITIONS, TO PROVIDE FOR THE AFFECT OF FAILING TO APPEAR, TO PROVIDE
22 FOR ACTION BY THE COURT, TO PROVIDE FOR COSTS, TO PROVIDE FOR REVIEW OF
23 JUDGMENTS AND TO PROVIDE THAT THE COURT SHALL DISREGARD ANY ERROR, IR-
24 REGULARITY OR OMISSION WHICH DOES NOT AFFECT THE SUBSTANTIAL RIGHTS OF
25 PARTIES; AND DECLARING AN EMERGENCY.
26

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

28 SECTION 1. That Section 43-322, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 43-322. POWER TO INCUR DEBTS -- WARRANTS. The board of directors, or
31 other officers of the district, shall have no power to incur any debt or
32 liability whatever, either by issuing bonds or otherwise, in excess of the
33 express provisions of this section; and any debt or liability incurred in
34 excess of such express provisions shall be and remain absolutely void: pro-
35 vided, that for the purpose of organization, or for any of the purposes of
36 this title, the board of directors may, before the collection of the first
37 assessment, incur indebtedness and cause warrants of the district to issue
38 therefor according to the following limitations: Districts embracing fifty
39 thousand (50,000) acres, or more, of irrigable land, not in excess of fifteen
40 thousand dollars (\$15,000) of warrants; districts embracing forty thou-
41 sand (40,000) acres, or more, and less than fifty thousand (50,000) acres
42 of irrigable land, up to twelve thousand dollars (\$12,000) of warrants;

1 districts embracing thirty thousand (30,000) acres, or more, and less than
2 forty thousand (40,000) acres of irrigable land, up to nine thousand dollars
3 (\$9,000) of warrants; districts embracing twenty thousand (20,000) acres,
4 or more, and less than thirty thousand (30,000) acres of irrigable land, up
5 to six thousand dollars (\$6,000) of warrants; districts embracing ten thou-
6 sand (10,000) acres, or more, and less than twenty thousand (20,000) acres
7 of irrigable land, up to four thousand dollars (\$4,000) of warrants; dis-
8 tricts embracing more than two thousand (2,000) acres, or more, and less than
9 ten thousand (10,000) acres of irrigable land up to three thousand dollars
10 (\$3,000) of warrants, and districts embracing less than two thousand (2,000)
11 acres of irrigable land up to two thousand dollars (\$2,000) of warrants.

12 Provided, further, that for the purpose of defraying the expenses in the
13 care, operation, repair and improvement of such portion of the irrigation
14 works of the district as are completed and in use, including salaries of of-
15 ficers and employees, the board of directors of an irrigation district may at
16 any time issue warrants of such district in payment of claims of indebtedness
17 against the district, not to exceed the district's anticipated revenue.

18 The warrants herein authorized shall be in form and substance the same
19 as county warrants or as near the same as may be practicable and shall be
20 signed by the chairman and attested by the secretary of said board. All such
21 warrants shall be presented by the holder thereof to the treasurer of the
22 district for payment who shall indorse thereon the day of presentation for
23 payment with the additional indorsement thereon, in case of nonpayment, that
24 they are not paid for want of funds, and such warrants shall draw interest at
25 a rate to be established by the board of directors from the date of their pre-
26 sentation to the treasurer for payment as aforesaid until such warrants are
27 paid. No warrants shall be issued in payment of any indebtedness of such dis-
28 trict for less than face or par value. It shall be the duty of the treasurer
29 from time to time when he has sufficient funds in his hands for that purpose
30 to advertise in some newspaper in the county in which the district is sit-
31 uated requiring the presentation to him for payment of as many of the out-
32 standing warrants as he may be able to pay. Ten (10) days after the first pub-
33 lication of said notice by the treasurer calling in any of said outstanding
34 warrants, said warrants shall cease to bear interest, which shall be stated
35 in the notice. Said notice shall be published two (2) weeks consecutively
36 and said warrants shall be called in and paid in the order of their indorse-
37 ment.

38 Provided, further, after an irrigation district has organized and has
39 no warrants outstanding, the district may maintain its operation on a cash
40 basis and pay by check the expenses of operation and maintenance, repair, im-
41 provement, obligations on contractual or bonded indebtedness, and all other
42 general necessary expenses incurred by the district.

43 The board of directors, or other officers of the district, may incur
44 debt by contracting indebtedness with a money-lending institution, subject
45 to the election requirements contained in section 43-401, Idaho Code, or as
46 described in section 42-322A, Idaho Code, but the term of such indebtedness
47 shall not exceed ~~twenty~~ thirty (230) years.

48 SECTION 2. That Chapter 3, Title 43, Idaho Code, be, and the same is
49 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
50 ignated as Section 43-322A, Idaho Code, and to read as follows:

1 43-322A. POWER TO INCUR DEBTS -- MITIGATION PLANS AND RECHARGE
2 PROJECTS -- JUDICIAL EXAMINATION. (1) The board may by resolution adopted
3 by a two-thirds (2/3) majority of the board, determine that the interest of
4 the district and the public interest and necessity demand the development
5 and operation of a mitigation plan or recharge project and shall set forth
6 the amount of obligation or contract indebtedness proposed to be issued by
7 the district under the provisions of this chapter for the development of such
8 mitigation plan or recharge project. The board shall submit the contract
9 indebtedness in the proposed resolution to a vote of the qualified electors
10 of the district as defined in section 43-111, Idaho Code, at an election to
11 be held only if within fifteen (15) days after the passage of such resolution
12 a referendum petition signed by qualified electors of the district whose
13 aggregate water rights equal not less than ten percent (10%), calculated on
14 a per acre basis, of the aggregate water rights of all qualified electors of
15 the district, shall be filed with the secretary of the district requesting
16 that an election upon the issuance of the contract indebtedness be held
17 and conducted under the provisions of this section. Any election required
18 to be held pursuant to a referendum petition filed in accordance with this
19 section for the purpose of submitting any proposition or propositions of
20 incurring such obligation or indebtedness shall be held in accordance with
21 section 34-106, Idaho Code. The resolution, in addition to such declaration
22 of public interest or necessity, shall recite the objects and purposes for
23 which the indebtedness is proposed to be incurred, the estimated cost of the
24 mitigation plan or recharge plan, the amount of principal of the indebted-
25 ness to be incurred therefor, and the sources of the revenues and assessments
26 pledged to the payment of the indebtedness. The separate election upon the
27 assessments shall be held at the same time as and shall be combined with any
28 such election required to be held upon the indebtedness question pursuant to
29 a referendum petition. If no referendum petition is filed, or if so filed, if
30 it shall appear from the returns that the qualified electors of the district
31 representing two-thirds (2/3) of the aggregate water rights of the district,
32 calculated on a per acre basis, have voted in favor of the proposition, the
33 district thereupon shall be authorized to incur such indebtedness or obli-
34 gations, or enter into such contracts, all for the purposes provided for in
35 the proposition submitted in the resolution, and in the amount so provided
36 subject to judicial examination as provided in subsection (2) of this sec-
37 tion. Submission of the proposition of incurring such obligation or other
38 indebtedness at such an election shall not prevent or prohibit submission of
39 the same or other propositions at subsequent election or elections called
40 for such purpose.

41 (2) Prior to the incurring of indebtedness, the board of directors of
42 the irrigation district shall file in the district court of the county in
43 which their office is situated a petition, praying in effect that the pro-
44 ceedings aforesaid may be examined, approved and confirmed by the court.
45 The petition shall state generally that the irrigation district was duly
46 organized and the first board of directors elected, that due and lawful
47 proceedings were taken to authorize the incurrence of indebtedness by the
48 issuance of bonds or otherwise for mitigation plans or recharge projects
49 in an amount to be stated, and that said assessment, list and apportionment
50 were duly made and a copy of said assessment, list and apportionment shall be

1 attached to said petition. Whenever any district that is required to file
2 a petition hereunder has or proposes to enter into a contract or contracts
3 with one (1) or more districts or ground water district, the boards of such
4 other districts or ground water districts may join in the filing of such
5 petition, and the district court in which such petition is filed shall have
6 jurisdiction to hear the petition and to grant the relief prayed for therein.
7 Each such petition shall pray for a judicial examination and determination
8 of any power conferred hereby or by any amendment hereto or of any assess-
9 ment levied or of any apportionment of costs or of any act, proceeding or
10 contract of the district or districts, whether or not said contracts shall
11 have been executed, including, without limitation, proposed contracts for
12 the reconstruction, rehabilitation, replacement and improvement of any well
13 and other related structures and works and appurtenances, falling water con-
14 tracts, contracts with other districts and contracts with other public and
15 private persons, firms, corporations and associations associated with mit-
16 igation plans or recharge projects. Such petition shall set forth the facts
17 whereon the validity of such powers, assessments, apportionments, acts,
18 proceedings or contracts is founded. Notice of the filing of said petition
19 shall be given by the clerk of the court in accordance with the requirements
20 of section 43-407, Idaho Code, stating in brief outline the contents of the
21 petition and showing where a full copy of any contract or contracts, therein
22 mentioned, may be examined.

23 (3) Any water user in any district joining in the petition or any other
24 person interested in the contracts or proposed contracts may appear and
25 answer the petition at any time prior to the date fixed for the hearing or
26 within such further time as may be allowed by the court; and the petition
27 shall be taken as confessed by all persons who fail so to appear. The said
28 petition and notice shall be sufficient to give the court jurisdiction and,
29 upon hearing, the court: shall examine into and determine all matters and
30 things affecting the question submitted; shall examine all of the proceed-
31 ings of all of the districts as set forth in the petition; shall hear all
32 objections either filed in the proceeding or brought up from the hearings
33 before any of the boards; shall correct all errors in the assessments and ap-
34 portionments of costs; shall ratify, approve and confirm all apportionments
35 of costs and assessments levied; shall make such findings with reference
36 thereto and render a judgment and decree thereon approving and confirm-
37 ing all of the powers, assessments, apportionments, acts, proceedings and
38 contracts of each of the districts as set forth in the petition as the case
39 warrants. Costs may be divided or apportioned among the contesting parties
40 in the discretion of the trial court. Review of the judgment of the court
41 may be had as in other similar cases. The court shall disregard any error,
42 irregularity or omission which does not affect the substantial rights of the
43 parties.

44 SECTION 3. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after its
46 passage and approval.