

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 401

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO IRRIGATION DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 43-1122, IDAHO CODE, TO PROVIDE A PRO-
3 CEDURE FOR THE TRANSFER OF LANDS BETWEEN DISTRICTS; AMENDING CHAPTER
4 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1123, IDAHO
5 CODE, TO PROVIDE FOR THE CONTENT OF RESOLUTIONS REGARDING THE TRANSFER
6 OF LANDS BETWEEN DISTRICTS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE,
7 BY THE ADDITION OF A NEW SECTION 43-1124, IDAHO CODE, TO PROVIDE FOR
8 NOTICE; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A
9 NEW SECTION 43-1125, IDAHO CODE, TO PROVIDE FOR THE CONTENT OF THE NO-
10 TICE; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW
11 SECTION 43-1126, IDAHO CODE, TO PROVIDE FOR HEARING; AMENDING CHAPTER
12 11, TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1127, IDAHO
13 CODE, TO PROVIDE FOR ORDERS AND DETERMINATIONS; AMENDING CHAPTER 11,
14 TITLE 43, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1128, IDAHO
15 CODE, TO PROVIDE FOR THE ENTRY OF ORDERS, TO PROVIDE REQUIREMENTS FOR
16 ORDERS OF EXCLUSION, TO PROVIDE FOR THE DELIVERY OF COPIES OF EXCLUSION
17 ORDERS TO ANNEXING DISTRICTS, TO PROVIDE FOR ORDERS OF ANNEXATION AND TO
18 PROVIDE FOR RECORDING OF ORDERS; AMENDING CHAPTER 11, TITLE 43, IDAHO
19 CODE, BY THE ADDITION OF A NEW SECTION 43-1129, IDAHO CODE, TO PROVIDE
20 FOR THE EFFECT OF ORDERS; AMENDING CHAPTER 11, TITLE 43, IDAHO CODE,
21 BY THE ADDITION OF A NEW SECTION 43-1130, IDAHO CODE, TO PROVIDE FOR
22 APPEALS AND TO PROVIDE A PROCEDURE; AND AMENDING CHAPTER 11, TITLE 43,
23 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 43-1131, IDAHO CODE, TO
24 PROVIDE FOR COSTS.
25

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

27 SECTION 1. That Chapter 11, Title 43, Idaho Code, be, and the same is
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
29 ignated as Section 43-1122, Idaho Code, and to read as follows:

30 43-1122. TRANSFER OF LANDS BETWEEN DISTRICTS. The boards of directors
31 of two (2) irrigation districts may by resolution declare and act upon their
32 proposal to transfer lands from one (1) district to the other through ex-
33 clusion and annexation in accordance with sections 43-1122 through 43-1129,
34 Idaho Code. The district from which lands are proposed to be excluded shall
35 be identified as the "excluding district." The district to which lands are
36 proposed to be annexed shall be identified as the "annexing district."

37 SECTION 2. That Chapter 11, Title 43, Idaho Code, be, and the same is
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
39 ignated as Section 43-1123, Idaho Code, and to read as follows:

1 43-1123. RESOLUTION -- CONTENTS. The districts proposing to transfer
2 lands as authorized by section 43-1122, Idaho Code, shall adopt a resolu-
3 tion, either separately or jointly, which shall:

4 (1) Identify the excluding district and the annexing district;

5 (2) Provide a legal description of each lot or parcel proposed to be
6 transferred;

7 (3) Specify the name and address of each person in possession of each
8 such lot or parcel and of each owner thereof as the ownership appears of
9 record in the assessment rolls of the district and of each owner thereof as
10 the ownership appears of record in the office of the county recorder of the
11 county in which the land is situated and of each mortgagee and other lien-
12 holder whose mortgage or lien appears of record in the office of the county
13 recorder of the county in which the land is situated;

14 (4) Explain the reasons for the transfer including, but not limited to,
15 that the transfer is in the best interests of the owner of the land proposed
16 to be transferred and of the districts;

17 (5) Describe the benefits that will be apportioned and provided to the
18 proposed transferred lands by the annexing district;

19 (6) Provide a statement of applicable levies by the annexing district
20 in the year prior to the proposed transfer;

21 (7) Describe the proposed method of water delivery from the annexing
22 district to the lands proposed to be transferred;

23 (8) Identify obligations of the excluding district that will continue
24 to apply to the lands to be transferred;

25 (9) State whether the lands proposed to be transferred will be retained
26 within the excluding district for drainage purposes;

27 (10) Fix the date, time and place for hearing on the proposed transfer,
28 which time shall be not less than twenty-eight (28) days from the date of the
29 adoption of the resolution(s); and

30 (11) Recite any other information the districts deem to be pertinent to
31 the proposed transfer.

32 SECTION 3. That Chapter 11, Title 43, Idaho Code, be, and the same is
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
34 ignated as Section 43-1124, Idaho Code, and to read as follows:

35 43-1124. NOTICE. The secretaries of the excluding and annexing dis-
36 tricts shall publish and provide notice of the hearing on the proposed trans-
37 fer in the manner described in section 43-1112, Idaho Code. The secretaries
38 may publish and provide such notice separately or jointly.

39 SECTION 4. That Chapter 11, Title 43, Idaho Code, be, and the same is
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
41 ignated as Section 43-1125, Idaho Code, and to read as follows:

42 43-1125. NOTICE -- CONTENTS. The notice required by section 43-1124,
43 Idaho Code, shall contain:

44 (1) The information identified in section 43-1123, Idaho Code; and

45 (2) Notice to each person, firm, corporation and other legal entity in-
46 terested in the proposed transfer to appear at the district office at the
47 date and time fixed, and file objections in writing showing cause, if any

1 they may have, why the land or any part of it should not be transferred as pro-
2 posed in the resolution(s) of the boards of directors.

3 SECTION 5. That Chapter 11, Title 43, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 43-1126, Idaho Code, and to read as follows:

6 43-1126. HEARING. The boards of directors of the districts may hold
7 separate hearings or a joint hearing on the proposed transfer. At such hear-
8 ing(s), the boards of directors shall hear all of the objections presented to
9 them in writing and all evidence introduced in support of the transfer and in
10 support of the objections to the transfer.

11 SECTION 6. That Chapter 11, Title 43, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 43-1127, Idaho Code, and to read as follows:

14 43-1127. ORDERS -- DETERMINATIONS. After the hearing(s) on the trans-
15 fer proposal, the boards of directors of the districts shall order the trans-
16 fer of all or any part of the land described in the resolution when as to the
17 lands to be excluded they determine that:

18 (1) The transfer is in the best interests of the owner of the lands to be
19 transferred and of the district;

20 (2) The annexing district will apportion and provide comparable bene-
21 fits to the lands to be transferred;

22 (3) There will be no interruption in the delivery of water to the lands
23 to be transferred as a result of the transfer; and

24 (4) The ditch rights of other landowners in the same lateral ditch water
25 users' association in the excluding district will not be injured.

26 SECTION 7. That Chapter 11, Title 43, Idaho Code, be, and the same is
27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
28 ignated as Section 43-1128, Idaho Code, and to read as follows:

29 43-1128. ENTRY AND RECORDING OF ORDERS. If the boards of directors de-
30 termine from the hearing that all or part of the lands described in the res-
31 olution should be transferred from one (1) district to another, the boards
32 shall enter orders as follows:

33 (1) The board of the excluding district shall make and enter an order of
34 exclusion that:

35 (a) Describes each lot or parcel being transferred;

36 (b) Changes the boundaries of the district to exclude such lands;

37 (c) States that the excluded lands shall not be entitled to receive
38 water from the water rights or irrigation system of the excluding dis-
39 trict;

40 (d) States that the excluded lands shall remain part of the excluding
41 district for drainage purposes if the excluded lands will continue to
42 receive drainage benefits from the excluding district;

43 (e) Identifies the obligations of the excluding district that will con-
44 tinue to apply to the lands to be transferred;

1 (f) Recites any other information the districts deem to be pertinent to
2 the proposed transfer; and

3 (g) Provides that the order shall not become effective until the annex-
4 ing district enters an order annexing the lands described in the exclu-
5 sion order.

6 (2) The secretary of the excluding district shall deliver a copy of the
7 exclusion order to the annexing district.

8 (3) As soon as practicable after receiving the exclusion order, the an-
9 nexing district shall make and enter an order that the lands described in the
10 exclusion order be annexed to the annexing district.

11 (4) After the annexing district has entered its order of annexation,
12 copies of the orders of exclusion and annexation, certified by the presi-
13 dents and secretaries of the districts, shall be recorded in the office(s) of
14 the county recorder(s) of each county wherein any portion of the transferred
15 lands are situated.

16 SECTION 8. That Chapter 11, Title 43, Idaho Code, be, and the same is
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
18 ignated as Section 43-1129, Idaho Code, and to read as follows:

19 43-1129. EFFECT OF ORDERS. The order excluding the transferred lands
20 from the excluding district shall have the same effect described in sections
21 43-1109 and 43-1119, Idaho Code. The order annexing the transferred lands
22 to the annexing district shall have the same effect described in section
23 43-1009, Idaho Code.

24 SECTION 9. That Chapter 11, Title 43, Idaho Code, be, and the same is
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
26 ignated as Section 43-1130, Idaho Code, and to read as follows:

27 43-1130. APPEALS -- PROCEDURE. An appeal shall lie from the orders of
28 the boards of directors transferring lands covered by the procedures pur-
29 suant to sections 43-1122 through 43-1128, Idaho Code, and from any part of
30 such orders. The appeal may be taken by any landowner in the excluding dis-
31 trict or in the annexing district and by any person, firm, corporation or
32 other entity having any interest in any tract of land included in such or-
33 ders. The appeal shall be to the district court of the county where the lands
34 involved in the appeal are located. The appeal shall be taken and shall be
35 subject to the appeal provisions of section 43-719(4) and (5), Idaho Code.

36 SECTION 10. That Chapter 11, Title 43, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 43-1131, Idaho Code, and to read as follows:

39 43-1131. COSTS. All costs incurred by the districts in the transfer
40 process provided by sections 43-1122 through 43-1128, Idaho Code, shall be
41 divided equally between the districts, unless the districts agree upon a
42 different apportionment of costs.