

IN THE SENATE

SENATE BILL NO. 1064

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO IRRIGATION; AMENDING SECTION 43-1101, IDAHO CODE, TO REVISE
2 FEE PROVISIONS REGARDING PETITIONS FOR EXCLUSION; AMENDING SECTION
3 43-1104, IDAHO CODE, TO REVISE THE TIME IN WHICH HEARINGS ARE TO BE HELD
4 REGARDING PETITIONS FOR EXCLUSION, TO REQUIRE PAYMENT OF OUTSTANDING
5 ASSESSMENTS, TO PROVIDE FOR LIENS AND TO MAKE TECHNICAL CORRECTIONS;
6 AND AMENDING SECTION 43-1107, IDAHO CODE, TO REVISE PROVISIONS REGARD-
7 ING EXCEPTIONS TO PAYMENT OF COSTS ASSOCIATED WITH EXCLUSION OF LAND, TO
8 CLARIFY VERBIAGE, TO REVISE THE TIME IN WHICH HEARINGS ARE TO BE HELD AND
9 TO MAKE TECHNICAL CORRECTIONS.
10

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

12 SECTION 1. That Section 43-1101, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 43-1101. PETITION. Any person or persons owning land within any irri-
15 gation district and forming a part thereof may file with the board of direc-
16 tors of such irrigation district a petition in writing requesting the exclu-
17 sion of the land or lands owned by them and described in the petition from
18 the irrigation district. As many parties owning separate tracts or parcels
19 of lands in any irrigation district or who are united in interest to which
20 the same state of facts apply, may unite in the same petition. The petition
21 shall be signed by all of the petitioners, but need not be acknowledged. A
22 filing fee in the amount of five dollars (\$5.00) for each parcel of land de-
23 scribed in the petition shall accompany the filing of each petition, plus an
24 exclusion fee in the amount of twenty-five dollars (\$25.00) for each lot con-
25 taining less than one (1) acre which is in a subdivision as defined in section
26 50-1301, Idaho Code, or an exclusion fee of fifty dollars (\$50.00) for each
27 parcel containing less than one (1) acre that is not in a subdivision, or an
28 exclusion fee of fifty dollars (\$50.00) for each acre ~~or~~ and additional por-
29 tion thereof in all other parcels of property, for which the district shall
30 provide a suitable receipt evidencing payment. Any petition not accompa-
31 nied by the required filing fee and exclusion fee shall be returned to the
32 petitioner. All other costs of the exclusion proceeding shall be assessed
33 as provided in section 43-1105 The filing fee and the exclusion fee are borne
34 by the petitioner and are not potentially apportionable costs as provided in
35 sections 43-1105, 43-1106 and 43-1107, Idaho Code.

36 A person or persons purchasing land under a written contract shall be
37 deemed to be the owners of that land for purposes of this section.

38 SECTION 2. That Section 43-1104, Idaho Code, be, and the same is hereby
39 amended to read as follows:

1 43-1104. HEARING ON PETITION -- ORDER OF EXCLUSION. The board of di-
 2 rectors of the irrigation district may conduct its own investigation of the
 3 facts alleged in the petition and, by resolution duly adopted, which may ad-
 4 dress the allegations of several petitions, accept the facts as alleged and
 5 determine that no hearing is required prior to granting the petition or peti-
 6 tions for exclusion. If the allegations are not thus accepted such petition
 7 must be heard by the board of directors of such irrigation district within
 8 ~~ninety one hundred fifty~~ (90150) days of filing of the petition. If no hear-
 9 ing is held within ~~ninety one hundred fifty~~ (90150) days, the land described
 10 in the petition is excluded from the district. If a hearing is ordered, the
 11 petitioner or petitioners must establish by competent evidence the allega-
 12 tions of the petition, and the chairman or presiding member of the board is
 13 hereby empowered to administer oaths for the purpose of the hearing.

14 When (1) the board of directors accepts the facts as alleged without a
 15 hearing, or (2) the allegations of the petition are established at a hear-
 16 ing, or (3) the land has been excluded by reason of the board's failure to
 17 hold a hearing within ~~ninety one hundred fifty~~ (90150) days of filing of the
 18 petition, the board must make an order forthwith changing the boundaries of
 19 such district so as to exclude the lands described in the petition which the
 20 proof has established to be entitled to exclusion, and thereafter the lands
 21 so excluded shall not form a part of the irrigation district for any purpose
 22 except as provided in subsection (b) of section 43-1102, Idaho Code; pro-
 23 vided, however, that the lands so ordered excluded shall not be relieved of
 24 their obligation to pay their proportionate share of any existing bonded or
 25 contract indebtedness of the irrigation district, and the lands shall remain
 26 a part of the irrigation district for the purpose of discharging the existing
 27 bonded or contract indebtedness.

28 No hearing shall be held when, prior to the date set for the hearing, the
 29 board issues an order excluding the land described in the petition from the
 30 district.

31 When land is excluded from the district pursuant to a petition filed
 32 on or before December 1 in any calendar year, assessments against the land
 33 for any calendar year subsequent to the year in which the petition was filed
 34 shall not be valid and no lien for any such attempted assessment shall attach
 35 under section 43-706, Idaho Code. Petitioners are, however, required to pay
 36 any outstanding assessments levied the calendar year and prior in which the
 37 petition is filed and said lien shall attach until said assessments are paid.

38 SECTION 3. That Section 43-1107, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 43-1107. COSTS. The costs of excluding any land as provided in this
 41 chapter shall be borne by the petitioner or petitioners except in cases
 42 where:

43 (1) The lands excluded are found to be too high or not susceptible of
 44 irrigation from the water system of the district without pumping by the
 45 landowner and the petitioner or previous owners of the land have paid the
 46 assessments of the district against that land; or

47 (2) The exclusion is requested under subsection (a)3_ or (a)4_ of sec-
 48 tion 43-1102, Idaho Code, and for the five (5) irrigation seasons preceding
 49 the filing of the petition (a) there has been no pipe, ditch or other deliv-

1 ery system between the land and the assigned delivery point on the district's
2 irrigation system, and (b) the petitioner or previous owners of the land have
3 paid the assessments of the district against that land. If the petitioner is
4 required to pay the costs of exclusion hearing proceedings, the board may re-
5 quire a deposit of the estimated costs before they will hear the petition and
6 the ninety one hundred fifty (90150) day period in which the petition must
7 be heard as provided in section 43-1104, Idaho Code, shall not begin to run
8 until the estimated costs have been deposited; ~~provided,~~ however, that, in
9 case of a successful appeal by the petitioner, the costs taxed by the dis-
10 trict to the petitioner or petitioners whose lands are excluded by the dis-
11 trict court shall be borne by the irrigation district. If the actual costs
12 of the exclusion proceedings are less than the amount deposited by the peti-
13 tioner, the excess deposit shall be credited against any amounts which are
14 to be paid by the petitioner prior to entry of the order of exclusion, and
15 the balance, if any, shall be refunded to the petitioner within fourteen (14)
16 days after the hearing; if the actual costs of the exclusion proceedings are
17 more than the deposit, the difference shall be paid to the district by the pe-
18 titioner within fourteen (14) days after receipt of a statement to that ef-
19 fect from the district, and the board shall not be required to enter an order
20 of exclusion until the difference is paid.