

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE SENATE

SENATE BILL NO. 1099

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO IRRIGATION AND DRAINAGE; AMENDING SECTION 42-1301, IDAHO CODE, TO REVISE CONDITIONS UNDER WHICH PARTIES CONSTITUTE A LATERAL WATER USERS' ASSOCIATION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-1303, IDAHO CODE, TO PROVIDE THAT THE OPERATION, IMPROVEMENT, REPAIR AND MAINTENANCE OF CERTAIN LATERALS AND DITCHES SHALL BE UNDER THE DIRECTION OF THE DIRECTORS OF THE LATERAL WATER USERS' ASSOCIATION, TO REVISE PROVISIONS RELATING TO THE EXAMINATION OF LATERALS AND DITCHES AND PREPARATION OF ESTIMATES OF CERTAIN TOTAL COSTS AND TO REVISE PROVISIONS RELATING TO ASSESSMENT OF WATER USERS; AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1311, IDAHO CODE, TO PROVIDE THAT CERTAIN ASSESSMENTS SHALL BE A LIEN UPON CERTAIN LANDS OF A WATER USER, TO PROVIDE FOR THE RECORDING AND COLLECTION OF LIENS, TO PROVIDE FOR THE DURATION OF LIEN AND TO PROVIDE FOR THE PRIORITY OF CERTAIN LIENS; AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1312, IDAHO CODE, TO PROVIDE A PROCEDURE FOR WITHDRAWAL FROM A LATERAL WATER USERS' ASSOCIATION AND TO PROVIDE THAT WITHDRAWAL SHALL NOT AFFECT CERTAIN LIENS; AND AMENDING CHAPTER 13, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-1313, IDAHO CODE, TO DEFINE A TERM.

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

SECTION 1. That Section 42-1301, Idaho Code, be, and the same is hereby amended to read as follows:

42-1301. ORGANIZATION -- OFFICERS -- RULES. ~~Where~~ When three (3) or more parties ~~take each own or possess and control land with appurtenant water rights which each are entitled to receive from the same point or points of delivery in a canal or reservoir, at or from the same point or points of diversion from waters of the state,~~ to be conveyed to their respective premises for any distance through a the same lateral or distributing ditch or laterals or distributing ditches that are not operated and maintained by an irrigation district, canal company or other water delivery organization, such parties shall be members of and shall constitute a water users' association known as "Lateral Water Users' Association of Lateral or Laterals." Such water users' association may meet and organize at any time after thirty (30) days after this chapter shall take effect, and shall meet annually thereafter between January ~~first~~ 1 and the last Monday in March of each year, at the call of the secretary of such association, said secretary to give ten (10) days' notice by mail of such annual meeting; provided that if for any reason the secretary should fail to call a meeting, then the annual meeting of such association shall be held on the last Monday in March of each year. At such annual meetings each water user shall be entitled to one (1) vote in person, for each inch and a fractional vote for each fraction of an inch of

1 water which such water user is entitled to receive from such laterals, and a
 2 corporation shall vote by one (1) of its officers designated by it. Such as-
 3 sociation shall organize by the election of a chairman, vice-chairman and a
 4 secretary-treasurer, which officers shall also constitute the board of di-
 5 rectors of such association, and shall hold office for one (1) year and until
 6 their successors are elected. Such association at the annual meeting shall
 7 also elect a manager of said lateral or laterals to be known as "lateral man-
 8 ager" for the succeeding season and shall fix the compensation of said man-
 9 ager, and of all officers. Such association may adopt such rules and regula-
 10 tions for the management of said lateral or laterals or distributing ditch or
 11 ditches and the delivery of water therefrom as they deem best, and may, by ma-
 12 jority vote, if it be deemed for the best interests of the association, com-
 13 bine one (1) or more laterals and abandon laterals not in use, and do any and
 14 all things not in conflict with the provisions of this chapter or the laws of
 15 this state wherein the best interests of the association will be furthered.

16 SECTION 2. That Section 42-1303, Idaho Code, be, and the same is hereby
 17 amended to read as follows:

18 42-1303. LATERAL DITCHES -- REPAIRS, IMPROVEMENTS, AND MAINTENANCE --
 19 ASSESSMENT OF COSTS. ~~Immediately after the operation, improvement, repair~~
 20 ~~and maintenance of any such lateral or distributing ditch shall be under the~~
 21 ~~direction of the directors of the association. Following the association's~~
 22 ~~annual meeting, of any such association the association's directors thereof~~
 23 ~~and the lateral manager shall make an examination of examining the lateral or~~
 24 ~~laterals or distributing ditch or ditches, and make prepare an estimate as of~~
 25 ~~the total cost to the cost of the necessary repairs and improvements thereon,~~
 26 ~~operate, repair, improve and the maintenance thereof for maintain the lat-~~
 27 ~~eral or laterals or ditch or ditches to properly deliver water to the wa-~~
 28 ~~ter users' lands during the succeeding season, including the compensation~~
 29 ~~of officers and lateral manager. and sSuch total cost and charges shall be~~
 30 ~~assessed pro-rata to each water user from said lateral, either (1) in the~~
 31 ~~following manner, if agricultural land in proportion to the water which the~~
 32 ~~owner quantity of water the water user is entitled to receive from such lat-~~
 33 ~~eral or ditch, and if bears to the total quantity of water which all asso-~~
 34 ~~ciation water users are entitled to receive therefrom, or (2) if the water~~
 35 ~~user's land consists of a lot or lots within any a city or village, then the~~
 36 ~~assessment may be made upon the basis of each lot, the same to be uniform upon~~
 37 ~~lots of the same size. The improvement, repair and maintenance of any such~~
 38 ~~lateral or distributing ditch shall be under the direction of the directors~~
 39 ~~of the association.~~

40 SECTION 3. That Chapter 13, Title 42, Idaho Code, be, and the same is
 41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 42 ignated as Section 42-1311, Idaho Code, and to read as follows:

43 42-1311. AMOUNT AND LIEN OF ASSESSMENTS. The amount assessed against
 44 each water user, together with any penalties and interest, shall be a lien
 45 upon the water user's land that is entitled to receive water from the point
 46 or points of delivery in the canal or reservoir, or from the point or points
 47 of diversion from waters of the state, that supplies the association's lat-

1 eral or ditch. The lien shall be recorded and collected in accordance with
2 subsections (2) through (5) of section 45-810, Idaho Code, governing home-
3 owner's association liens, except that the lien may be continued in force for
4 a period of time not to exceed three (3) years and may be extended not to ex-
5 ceed three (3) additional years. The lien provided for in this section shall
6 have priority according to its date of recordation, except as to other liens
7 described in titles 42 and 43, Idaho Code.

8 SECTION 4. That Chapter 13, Title 42, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 42-1312, Idaho Code, and to read as follows:

11 42-1312. WITHDRAWAL FROM LATERAL WATER USERS' ASSOCIATION. A water
12 user may withdraw from the association by providing written notice and proof
13 that the water user's land is no longer entitled to receive water from the
14 point or points of delivery in the canal or reservoir, or from the point
15 or points of diversion from waters of the state, that supplies the associ-
16 ation's lateral or ditch. Withdrawal shall not affect any lien recorded
17 against the water user's land pursuant to section 42-1311, Idaho Code, prior
18 to withdrawal.

19 SECTION 5. That Chapter 13, Title 42, Idaho Code, be, and the same is
20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
21 ignated as Section 42-1313, Idaho Code, and to read as follows:

22 42-1313. WATER USER DEFINED. As used in this chapter, "water user"
23 means each person or entity that is a member of a lateral water users' as-
24 sociation because they own or possess and control land that is entitled to
25 receive water from the point or points of delivery in the canal or reservoir,
26 or from the point or points of diversion from waters of the state, that sup-
27 plies the association's lateral or ditch.