

IN THE SENATE

SENATE BILL NO. 1290

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO DRAINAGE DISTRICTS; AMENDING SECTION 42-2914, IDAHO CODE, TO PROVIDE FOR REAPPORTIONMENT OF CERTAIN BENEFITS, TO PROVIDE FOR PETITIONS, TO PROVIDE FOR ORDERS RELATING TO HEARINGS, TO PROVIDE FOR PUBLICATION OF ORDERS, TO PROVIDE FOR OBJECTIONS AND TO PROVIDE FOR ORDERS RELATING TO REAPPORTIONMENT; AMENDING SECTION 42-2961, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPORTIONMENT OF ESTIMATES OF THE COST OF MAINTENANCE OF DRAINAGE DISTRICTS' DRAINAGE SYSTEMS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 42-2962, IDAHO CODE, TO PROVIDE A CODE REFERENCE RELATING TO THE APPORTIONMENT OF CERTAIN ASSESSMENTS AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 42-2914, Idaho Code, be, and the same is hereby amended to read as follows:

42-2914. EXAMINATION OF LANDS -- REPORT OF COMMISSIONERS -- APPORTIONMENT AND REAPPORTIONMENT OF BENEFITS AND DAMAGES. As soon as may be after their appointment, or within such time as the court may direct, the commissioners shall examine the lands described in the petition and proposed to be drained and protected, and the lands over and upon which the work is proposed to be constructed and shall determine and report:

1. Whether the starting point, route and terminus of the proposed work and the proposed location thereof, is or are in all respects proper and feasible, and if not, what is or are so.

2. The estimated cost of the proposed work, including all incidental expenses and the cost of proceedings therefor.

3. The probable cost of keeping the same in repair after the work is completed.

4. What lands will be injured thereby and the aggregate amount of such injuries; and they shall award to each tract or lot, by whomsoever held, the amount of damage so determined by them.

5. What lands will be benefited by the construction of the proposed work, whether the benefits will equal or exceed the aggregate cost of constructing such work, including all incidental expenses, costs of proceedings and damages; and they shall apportion and assess the estimated cost of the same on the lands so benefited by setting opposite the correct description of each tract, lot or easement, the portion of such cost assessed as benefits thereon. And if any particular part of the work so proposed to be done shall be assessed upon any particular tracts or lots of land or upon any municipality or corporation they shall so specify; and if any municipality or corporation should in their judgment bear a part of the expense or as such will derive a public or special benefit from the whole or any part of such proposed work, they shall so report and assess the amount of such benefits.

6. Whether the proposed district, as set out in the petition filed, will embrace all the lands that may be damaged or benefited by the proposed work, and if not, what additional lands will be benefited or damaged and the amount of the benefits or damages in the same manner as though such lands were included in such original petition.

7. If the commissioners determine the lands benefited or the amount of said benefits has either changed or is in error, the commissioners may petition the court to reapportion the benefits to part or all of the lands within the district. Upon receipt of a petition, the court shall make and enter an order fixing a time and place when and where all persons interested may appear and object to the reapportionment of benefits, and the clerk of the court shall cause publication of the order in three (3) consecutive weekly issues in a newspaper of general circulation within each county in which any of the lands for which reapportionment of benefits is sought are located. Any landowner affected by the reapportionment of benefits may object against the whole or any part of the reapportionment pursuant to the provisions of section 42-2920, Idaho Code. Upon a hearing pursuant to the provisions of section 42-2921, Idaho Code, the court shall issue an order setting forth the reapportionment of benefits, if any.

SECTION 2. That Section 42-2961, Idaho Code, be, and the same is hereby amended to read as follows:

42-2961. APPORTIONMENT OF COST OF MAINTENANCE. The board of commissioners of any drainage district organized under the provisions of this chapter shall, on or before the third Monday of September of each year, make an estimate of the cost of maintenance of the drainage system constructed in such district, which estimate shall include the cost of making any necessary repairs that it might become necessary to make in the maintenance of such system. Such estimate shall be made for the succeeding year, and the amount so estimated shall be certified by the board of commissioners to the auditor of the county in which such district is located, on or before said date, and the amount thereof shall be apportioned to the landowners in such district benefited by said improvement in proportion to the ~~maximum~~ benefit originally assessed ~~apportioned or reapportioned~~, and such amount shall be added to the general taxes of such landowners and collected therewith; ~~provided, however,~~ that at the option of the commissioners the amount apportioned to every landowner on any parcel or piece of land shall be not less than one dollar (\$1.00), which amount shall be a minimum assessment to be collected as a tax for the year on every such parcel or piece of land.

SECTION 3. That Section 42-2962, Idaho Code, be, and the same is hereby amended to read as follows:

42-2962. LEVY OF AND LIMITATION ON ASSESSMENTS. The commissioners may also levy assessments for any expense necessarily incurred by them for construction, maintenance, repair, or any extraordinary reasons, and also may add to said assessment sufficient to pay any deficiency occurring the preceding year or any other unpaid warrant indebtedness, if any, or to pay any outstanding warrants: provided, that any assessments to be hereafter made by any drainage commissioners to pay warrants shall not exceed twenty

1 ~~per cent~~ percent (20%) of the original cost of organization and construction
2 in addition to the assessments which may be levied under section 42-2936,
3 and such assessments, when made, shall be apportioned under section 42-2961,
4 Idaho Code, and collected as hereinbefore provided for.