

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 19
DOMESTIC WATER SYSTEMS -- CONTRACTS WITH UNITED STATES

43-1901. AUTHORITY CONFERRED. In addition to other powers and authorities any irrigation district now or hereafter organized under the laws of Idaho and having a contract or hereafter contracting with the United States under the Federal Reclamation Law (being the act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto) may (a) contract with the United States or an agency of the state of Idaho for the construction, operation and maintenance of a domestic or irrigation water system, and (b) enter into such other obligations and do such other things as are incidental to the construction and operation and maintenance of such system and (c) make provisions for the operation and maintenance of a garbage disposal program for the benefit of the residents. The cost of operation and maintenance of such garbage disposal program shall be paid from the district's current expense fund. Service through such system may be provided both to lands within the district and to other lands that the district's board of directors determines can be served feasibly and economically. Any irrigation district contracting with an agency of the state of Idaho shall not be required to have a contract with the United States under the Federal Reclamation Law, as cited above.

[(43-1901) 1946 (1st E.S.), ch. 3, sec. 1, p. 4; am. 1953, ch. 108, sec. 1, p. 142; am. 1974, ch. 86, sec. 1, p. 1177.]

43-1902. METHOD OF MAKING CONTRACT. The making of any contract under this act obligating a district to repay construction costs shall be authorized by the board of directors and the voters of the district in substantially the same manner as is provided with respect to contracts with the United States for repayment of the cost of irrigation works.

[(43-1902) 1946 (1st E.S.), ch. 3, sec. 2, p. 4.]

43-1903. TOLLS AND CHARGES -- HANDLING OF FUNDS. A district, acting through its board of directors, shall have the power in connection with a domestic water system undertaken under this act: (a) to establish periodic tolls and charges for domestic water service adequate to meet its contract obligations, all other expenses incurred in the construction, operation and maintenance of such a system, and to maintain such reserves as are reasonable to assure continuous and efficient domestic water service; (b) to require the payment of such tolls and charges in advance of the delivery of water; (c) to fix the delinquency dates for tolls and charges and the penalties for failure to pay before delinquency, penalties not to exceed twelve per cent (12%) per annum of the delinquent amounts; and (d) to handle and account for the domestic water system funds in such manner as may be required by contract with the United States.

[(43-1903) 1946 (1st E.S.), ch. 3, sec. 3, p. 4.]

43-1904. LIENS FOR TOLLS AND CHARGES -- RECORDING -- DURATION -- ENFORCEMENT. (a) A district may establish liens for delinquent tolls and

charges hereunder and penalties incidental thereto in the following manner: On or after the date of delinquency with respect to tolls or charges established with respect to a given parcel of land, the district may file with the county recorder of the county where the land is situated, a statement of the amounts delinquent and of the penalties accruing thereon. Such statement shall: describe in general terms the service for which the amounts are due, describe in terms sufficient for identification the lands for which the tolls or charges were established, give the name of the owner or reputed owner and name the district to which the amounts are due; and the statement shall be verified by the oath of the district through its attorney or agent to the effect that it is believed to be correct and just. From the filing of such statement the district shall have a lien for the delinquent amounts together with the accruing penalties thereon on the lands on account of which the tolls and charges in question were established.

(b) The county recorder must record such statements in a book kept by him for such purpose. The record must be indexed in the manner provided by law for the indexing of deeds and other conveyances. Fees for these services by the recorder shall be the same as are allowed by law for recording deeds and other instruments.

(c) No lien hereunder shall continue for two (2) years from the filing of the statement unless proceedings are commenced in a proper court within that time for the enforcement of such lien.

(d) District courts shall have jurisdiction of civil actions for the enforcement of the liens herein provided, and such actions may embrace one or more parcels of land and one or more landowners or reputed landowners. Allowable costs shall include the amounts paid for filing and recording the claim and reasonable attorney's fees. Except as otherwise provided in this act, the provisions of the Idaho laws relating to civil actions, new trials and appeals are applicable to and constitute the rules of practice in proceedings under this act.

(e) Nothing in this section 4 shall be construed to affect the right of a district to any other remedy available to it.

[(43-1904) 1946 (1st E.S.), ch. 3, sec. 4, p. 4.]

43-1905. ASSESSMENTS AND CHARGES AGAINST BENEFITED LANDS. In addition to all other powers and authorities of any irrigation district now or hereafter organized under the laws of the state of Idaho, such irrigation district may, in connection with any contract with the United States under the Federal Reclamation Law (being the act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto) for the construction, operation or maintenance of a domestic water system, together with an irrigation system, provide for the apportionment of benefits and make charges for either or both, including the levy of an annual assessment, on any bases permitted or required by the Federal Reclamation Law and by such contract, including, without limitation by reason of this enumeration, a plan in the case of a district embracing substantial areas devoted to suburban residences, under which such district is required to establish total annual assessments and charges against benefited lands for both construction payments and operation and maintenance costs, which are to be proportional, as nearly as practicable, to the relative repayment ability of the various sized operating units in single ownership, to which irrigation service is provided.

[(43-1905) 1946 (1st E.S.), ch. 4, sec. 1, p. 6.]

43-1906. SHORT TITLE. Sections [43-1907](#) through [43-1920](#), Idaho Code, may be cited as the "Irrigation District Domestic Water System Revenue Bond Act."

[43-1906, added 1988, ch. 299, sec. 1, p. 945.]

43-1907. GRANT OF AUTHORITY. Any irrigation district acquiring, constructing, reconstructing, improving, bettering or extending any works pursuant to this act, shall manage the works in the most efficient manner consistent with sound economy and public advantage, to the end that the services of the works shall be furnished at the lowest possible cost. No irrigation district shall operate any works primarily as a source of revenue to the district, but shall operate all such works for the use and benefit of those served by the works and for the promotion of the welfare and for the improvement of the health, safety, comfort and convenience of the inhabitants of the irrigation district.

[43-1907, added 1988, ch. 299, sec. 2, p. 945.]

43-1908. DEFINITIONS. For the purpose of sections [43-1907](#) through [43-1920](#), Idaho Code:

- (a) "District" means irrigation districts.
- (b) "Qualified elector" means any person, eighteen (18) years of age or older, possessing the qualifications required of electors under the general laws of this state, who at the time of the election has resided within the district for at least thirty (30) days.
- (c) "Water system" includes reservoirs, storage facilities, water mains, conduits, aqueducts, pipelines, pumping stations, filtration plants, and all appurtenances and machinery necessary or useful for obtaining, storing, treating, purifying or transporting water for domestic uses or purposes.
- (d) "Works" include water systems.

[43-1908, added 1988, ch. 299, sec. 3, p. 945.]

43-1909. POWERS. In addition to the powers which it may now have, any district shall have power under and subject to the following provisions:

- (a) To acquire by gift or purchase and to construct, reconstruct, improve, better or extend any works within or without the district, or partially within or partially without the district, or within any part of the district, and acquire by gift or purchase lands or rights in lands or water rights in connection therewith, including easements, rights of way, contract rights, leases, franchises, approaches, dams and reservoirs; to lease any portion of the excess or surplus capacity of any such works to any party located within or without the district, subject to the following conditions: that the capacity shall be returned or replaced by the lessee when and as needed by the district for the purposes set forth in section [43-1907](#), Idaho Code, as determined by the district; that the district shall not be made subject to any debt or liability thereby; and the district shall not pledge any of its faith or credit in aid to such lessee;
- (b) To exercise the right of eminent domain for any of the works, purposes or use provided by this act, in like manner and to the same extent as provided in section [7-720](#), Idaho Code;

(c) To operate and maintain any works within or without the boundaries of the district, or partially within or without the boundaries of the district, or within any part of the district;

(d) To issue its revenue bonds hereunder to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment or extension of any works;

(e) To prescribe and collect rates, fees, tolls or charges, including the levy or assessment of such rates, fees, tolls or charges against governmental units, departments or agencies, including the state of Idaho and its subdivisions, for the services, facilities and commodities furnished by works, and to provide methods of collections and penalties, including denial of service for nonpayment of the rates, fees, tolls or charges;

(f) To pledge an amount of revenue from works (including improvement, betterment or extensions thereto, thereafter constructed or acquired) sufficient to pay bonds and interest as the same shall become due, and to create and maintain reasonable reserves therefor. Such amount may consist of all or any part or portion of the revenues. In determining the cost, there may be included all costs and estimated costs of the issuance of bonds, all engineering, inspection, fiscal and legal expenses and interest which it is estimated will accrue during the construction period and for six (6) months thereafter on money borrowed or which it is estimated will be borrowed pursuant to the irrigation district domestic water system revenue bond act; and

(g) To issue bonds for the purpose of refunding any bonds theretofore issued under authority of the irrigation district domestic water system revenue bond act and to pay accrued interest and applicable redemption premiums on the bonds to be refunded, pursuant to and in the manner provided by section [57-504](#), Idaho Code.

[43-1909, added 1988, ch. 299, sec. 4, p. 945.]

43-1910. SUPERVISION OF WORKS. The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works under the provisions of sections [43-1906](#) through [43-1920](#), Idaho Code, and the collection of revenues therefrom for the service rendered thereby shall be under the supervision and control of the governing body of the district.

[43-1910, added 1988, ch. 299, sec. 5, p. 946.]

43-1911. WORKS TO BE SELF-SUPPORTING. The directors of the district issuing bonds pursuant to this act shall prescribe and collect reasonable rates, fees, tolls or charges for the services, facilities and commodities furnished by the works, and shall revise such rates, fees, tolls or charges from time to time, to provide that all works shall be and always remain self-supporting. The rates, fees, tolls or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due, all bonds and interest thereon for the payment of which the revenue is or shall have been pledged, charged or otherwise encumbered including reserves therefor, and (b) to provide for all expenses of operation and maintenance of the works, including reserves therefor.

[43-1911, added 1988, ch. 299, sec. 6, p. 947.]

43-1912. USE OF WORKS -- REVENUE. Any district issuing bonds under this act for the acquisition, construction, reconstruction, improvement, bet-

terment or extension of any works, shall have the right to appropriate, apply or expend the revenue of the works for the following purposes: (a) to pay when due all bonds and interest thereon, for the payment of which the revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; (b) to provide for all expenses of operation, maintenance, replacement and depreciation of the works, including reserves therefor; (c) to pay and discharge notes, bonds or other obligations and interest thereon, not issued under this act for the payment of which the revenue of the works may have been pledged, charged or encumbered; (d) to pay and discharge notes, bonds or other obligations and interest thereon which do not constitute a lien, charge or encumbrance on the revenue of such works, which may have been issued for the purpose of financing the acquisition, construction, reconstruction, improvement, betterment or extension of the works; and (e) provide a reserve for improvements to the works. Unless and until full and adequate provision has been made for the foregoing purposes, no district shall have the right to transfer the revenue of works to its general fund.

[43-1912, added 1988, ch. 299, sec. 7, p. 947.]

43-1913. PRELIMINARY EXPENSES. The district may provide for the payment of all necessary preliminary expenses actually incurred in the making of surveys, estimates of costs and revenues, employment of engineers and other employees, making of notices, taking of options, legal and clerical help and all other expenses necessary to be made and paid prior to the authorization for the issuance of revenue bonds, provided, that no such expenditures shall be made or paid unless an appropriation has been made therefor in the same manner as is required by law for district funds. Any funds so expended by the district shall be fully reimbursed and repaid to the district out of the sale of the revenue bonds before any other disbursements are made therefrom, and the amount so advanced by the district to pay the preliminary expenses shall be a first charge against the proceeds resulting from the sale of the revenue bonds until the same has been repaid as herein provided.

[43-1913, added 1988, ch. 299, sec. 8, p. 948.]

43-1914. RESOLUTION PRIOR TO CONSTRUCTION -- ELECTION. Before any district shall construct or acquire any works under this act, the directors of the district shall enact a resolution or resolutions which shall: (a) set forth a brief and general description of the works, and if the same are to be constructed, a reference to the preliminary report or plans and specifications which shall theretofore have been prepared and filed by an engineer chosen for that purpose; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of the works; (d) direct that revenue bonds of the district shall be issued pursuant to this act in an amount as may be necessary to pay the cost of the works; and (e) contain other provisions as may be necessary in the proposal.

The resolution shall be passed and approved as provided by law for the enactment of general resolutions, but the district shall not, without the assent of a majority of the qualified electors voting at an election to be held for that purpose, issue revenue bonds for the purpose of providing funds to own, purchase, construct, extend or equip, within and without the corporate limits of the district, any works, the principal and interest of which

to be paid solely from the revenue derived from rates and charges for the use of, and the service rendered by the works.

The resolution shall provide for the holding of an election and the giving of notice thereof by publication in the official newspaper of the district, the publication to be once a week for two (2) successive weeks prior to the election. The notice of election shall set forth the purpose of the resolution, the amount of bonds authorized by it, the maturity dates of the bonds, the maximum rate of interest they shall draw, the voting places, the hours between which the polls will be open and the qualifications of voters who may vote thereat. The election shall be conducted as are other district elections, provided, that any qualified elector shall be entitled to vote in the election, the provisions of section [43-111](#), Idaho Code, notwithstanding. The voting at the election must be by ballot, and the ballots used shall be worded substantially as follows:

In favor of issuing revenue bonds for the purposes provided by Resolution No.....

Against the issuance of revenue bonds for the purposes provided by Resolution No.....

If, at the election, a majority of the qualified electors, voting at the election, vote in favor of issuing the revenue bonds, then the district may issue the bonds and create indebtedness or liability in the manner and for the purpose specified in the resolution.

[43-1914, added 1988, ch. 299, sec. 9, p. 948.]

43-1915. BONDS -- FORM -- CONDITIONS. All revenue bonds issued under authority of this act shall be sold, executed and delivered in the same manner as provided by the municipal bond law for the sale of general obligation bonds, except that issues of revenue bonds may, in the discretion of the directors, be sold at a private sale without advertising the same at competitive bidding and at a price above, at, or below par. The resolution authorizing the issuance of bonds shall prescribe the form of bonds. The bonds shall bear interest at a rate or rates, payable annually, or at lesser intervals as may be prescribed by resolution; may be in one (1) or more series, bear the date or dates, mature at the time or times, and be redeemable before maturity at the option of the district; may be payable in the medium of payment, at the place or places, may carry registration privileges, may be subject to the terms of redemption, may contain the terms, covenants and conditions, and may be in the form as the resolution may provide. Pending preparation of the bonds, interim certificates in the form and with the provisions as the directors may determine may be issued. Bonds and interim certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law.

Notwithstanding the provisions of the municipal bond law, the governing body in any proceedings authorizing bonds under this act may:

(a) Provide for the initial issuance of one (1) or more bonds aggregating the amount of the entire issue;

(b) Make such provision for installment payments of the principal amount of any bond as it may consider desirable;

(c) Further make provision in any proceedings for the manner and circumstances in and under which any bond may in the future, at the request of the holder thereof, be converted into bonds of smaller denominations.

[43-1915, added 1988, ch. 299, sec. 10, p. 949.]

43-1916. BONDS -- ISSUANCE -- TERMS AND CONDITIONS. Whenever revenue bonds are authorized to be issued, the district directors shall by resolution provide for the issuance thereof. The resolution authorizing the issuance of revenue bonds, for the purpose authorized, shall contain covenants as to:

- (a) The purpose or purposes to which the proceeds of the sale of the bonds may be applied and the use and disposition thereof;
- (b) The use and disposition of the revenue of the works for which the bonds are to be issued, including the creation and maintenance of reserves;
- (c) The issuance of other or additional bonds payable from the revenue of the works;
- (d) The operation and maintenance of works;
- (e) The insurance to be carried thereon, the use and disposition of insurance moneys;
- (f) Books of account and inspection and audit thereof; and
- (g) The terms and conditions upon which the holders thereof or any trustee therefor shall be entitled to the appointment of a receiver which receiver may enter and take possession of works, operate and maintain the same, prescribe rates, fees, tolls or charges and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the district itself might do. The provisions of this section and of any resolution shall be a contract with the holder of the bonds and the duties of the district and its commissioners under this section and under the resolution, shall be enforceable by the holder by mandamus or other appropriate suit, action or proceedings at law or in equity.

[43-1916, added 1988, ch. 299, sec. 11, p. 950.]

43-1917. VALIDITY OF BONDS. Any resolution authorizing bonds may provide that the bonds shall contain a recital that they are issued pursuant to the irrigation district domestic water system revenue bond act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

[43-1917, added 1988, ch. 299, sec. 12, p. 950.]

43-1918. LIEN OF BONDS. All bonds of the same issue shall, subject to the prior and superior rights of outstanding bonds, claims or obligations, have prior and paramount lien on the revenue of the works for which the bonds have been issued, except that where provision is made in the resolution authorizing any issue or series of bonds for the issuance of additional bonds in the future on a parity therewith pursuant to procedures or restrictions provided in the resolution, additional bonds may be issued in the future on a parity with the issue or series in the manner so provided in the resolution. All bonds of the same issue shall be equally and ratably secured without priority by reason of number, date of bonds, date of sale, date of execution, or date of delivery, by a lien on revenue in accordance with the provisions of the irrigation district domestic water system revenue bond act and the resolution authorizing bonds.

[43-1918, added 1988, ch. 299, sec. 13, p. 950.]

43-1919. DISTRICT NOT LIABLE ON BONDS. Bonds issued pursuant to the irrigation district domestic water system revenue bond act shall not be a debt

of the district and the district shall not be liable thereon, nor shall they be payable out of any funds other than the revenue pledged to the payment thereof. Each bond issued under the irrigation district domestic water system revenue bond act shall recite, in substance, that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof. Bonds may be issued under the irrigation district domestic water system revenue bond act notwithstanding and without regard to any limitation or restriction on the amount or percentage of indebtedness, or of outstanding obligations of a district.

[43-1919, added 1988, ch. 299, sec. 14, p. 951.]

43-1920. WORKS AND BONDS EXEMPT FROM TAXATION. As long as a district shall own any works, the property and revenue of the works shall be exempt from taxation. Bonds issued under the irrigation district domestic water system revenue bond act and the income therefrom shall be exempt from taxation, except transfer and estate taxes.

[43-1920, added 1988, ch. 299, sec. 15, p. 951.]