

TITLE 43
IRRIGATION DISTRICTS

CHAPTER 1
ORGANIZATION OF DISTRICT

43-101. WHO MAY PROPOSE ORGANIZATION. Whenever fifty (50), or a majority, of the holders of title, or evidence of title, to lands susceptible of one or more modes of irrigation from the same or different sources and by the same or different systems of works, desire to provide for the irrigation of the same, or when for other reasons they desire to organize the proposed territory into one district, they may propose the organization of an irrigation district under this title: provided, said formation into one (1) district meets with the approval of fifty (50), or a majority of the holders of title, or evidence of title, to lands in each of the communities affected: provided, further, said holders of title or evidence of title shall hold such title or evidence of title to at least one-fourth (1/4) part of the total area of the land in the proposed district, exclusive of state and government land which will be assessable for the purposes of the district. The equalized county assessment roll next preceding the presentation of a petition for the organization of an irrigation district shall be sufficient evidence of title for the purpose of this title, but other evidence may be received, including receipts or other evidence of the rights of entrymen on lands under any law of the United States or of this state, and such entrymen shall be competent signers of such petition, and the lands on which they have made such entries shall, for the purposes of said petition, be considered as owned by them.

[(43-101) 1903, p. 150, sec. 1; am. 1907, p. 484, sec. 1, subd. 1; reen. R.C. & C.L., sec. 2372; C.S., sec. 4313; am. 1921, ch. 237, sec. 1, p. 529; I.C.A., sec. 42-101.]

43-102. PETITION FOR ORGANIZATION. A petition shall be first presented to the board of county commissioners of the county in which the greatest proportion of the proposed district is situated, signed by the required number of holders of title or evidence of title to the required area of such proposed district, evidenced as above provided, which petition shall set forth and describe, with the degree of certainty required by law in a tax roll, all the lands proposed to be included in said district, and shall state whether it is proposed to purchase irrigation works already in operation or to construct new works, or as the case may be, and shall pray that the same be organized into an irrigation district. The petition, together with all maps, cross sections and papers filed therewith, shall, at all proper hours, be open to public inspection at the office of the clerk of the board of county commissioners between the date of their said filing and the date of the final hearing thereon.

[(43-102) 1903, p. 150, part of secs. 2, 3; am. 1907, p. 484, sec. 1, subd. 2, and last part of subd. 3; compiled R.C. & C.L., sec. 2373; C.S., sec. 4314; I.C.A., sec. 42-102.]

43-103. MAPS AND WATER SUPPLY DATA. If it be proposed by said petition to construct new works for the irrigation of said lands, or to purchase works only partially completed and not yet in operation, the petitioners must accompany the petition with a map of the proposed district. Said map shall

show the location of the proposed canal or other works by means of which it is intended to irrigate the proposed district, and all the canals situated within the boundaries of the proposed district: provided, that canals that only pass through said lands and which do not in fact irrigate any of the same need not be shown. If said water supply be from natural streams, the flow of said stream or streams shall be stated in terms of cubic feet per second. If the water supply for said district is to be gathered by storage reservoirs, said map shall show the location of said proposed reservoirs, and shall give their capacity in acre feet. Said map shall be drawn to a scale of two (2) inches to the mile. Cross sections of the proposed canal, and all canals existing within the boundaries of said proposed district and shown on said map, and all proposed dams and embankments, shall be given in sufficient number to show the contemplated mode of construction, and the capacity shall be given in cubic feet per second of the proposed and said existing canals. Such cross sections shall be drawn to a scale of ten (10) feet to the inch, and said map and cross sections, together with an estimate of the cost of such works, shall be certified to by a well known and competent irrigation engineer.

[(43-103) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374; am. 1915, ch. 89, sec. 1, part of subd. 2374, p. 207; reen. C.L., sec. 2374; C.S., sec. 4315; I.C.A., sec. 42-103.]

43-104. BOND. The petitioners must also accompany the petition with a bond, to be approved by the said board of county commissioners, in double the amount of the probable cost to the county of organizing such district, conditioned that the bondsmen will pay all said costs, in case said organization be not effected.

[(43-104) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374; am. 1915, ch. 89, sec. 1, part of subd. 2374, p. 207; reen. C.L., sec. 2374a; C.S., sec. 4316; I.C.A., sec. 42-104.]

43-105. NOTICE OF PRESENTATION TO COMMISSIONERS. Such petition may be filed with the clerk of the board of county commissioners at any time, and on such filing said clerk shall publish a general notice that (giving the first name on the petition) and others have filed a petition for the organization of an irrigation district. If it be proposed in said petition to construct a new canal system, such notice shall state that fact and give the numbers of the sections in which the lands are situated which it is proposed to include in said district, but if it is proposed to purchase a canal already in operation, the notice shall state that fact and give the name by which such canal system is generally known, and shall state that the lands covered by said canal system are the lands proposed to be included in such district. The notice shall further state the time at which such petition will be presented to the board of county commissioners, which time shall be during a regular meeting of said board or a special meeting called for that purpose, and such notice shall be published two (2) weeks before the day on which the same is to be presented, and if any portion of such proposed district be within another county or counties, then said notice shall be published in a newspaper published in each of said counties.

[(43-105) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374; am. 1915, ch. 89, sec. 1, part of subd. 2374, p. 207; reen. C.L., sec. 2374b; C.S., sec. 4317; I.C.A., sec. 42-105.]

43-106. NOTICE OF HEARING. When such petition is presented, the said board shall set a time for a hearing upon the same, which time shall not be less than four (4) nor more than eight (8) weeks from the date of presentation. A notice of the time of such hearing shall be published by said board, at least three (3) weeks before the time of such hearing, in a newspaper published within each of the counties in which any part of said district is situated.

[(43-106) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374, am. 1915, ch. 89, sec. 1, part of subd. 2374, p. 207; reen. C.L., sec. 2374c; C.S., sec. 4318; I.C.A., sec. 42-106.]

43-107. EXAMINATION BY DEPARTMENT OF WATER RESOURCES -- REPORT TO COUNTY COMMISSIONERS -- AMENDMENT OF PLAN. A copy of such petition and all maps and other papers filed with the same shall be filed in the office of the department of water resources at least four (4) weeks before the date set for such hearing. It shall be the duty of the department to examine such petition, maps and other papers, and, if it deem it necessary, to further examine the proposed district, the works proposed to be purchased, or the location of the works to be constructed, and it shall prepare a report upon the matter in such form as it deems advisable, and submit the same to the board of county commissioners at the meeting set for the hearing of said petition. Whenever the department of water resources shall report to the board of county commissioners against the organization of such district, said board of county commissioners shall refuse to further consider such petition unless it be requested in writing so to do by three-fourths (3/4) of the landowners in said proposed district, such ownership to be determined as provided in section [43-101](#)[, Idaho Code]. At the time set for hearing the board may, on receiving an adverse report from the department, adjourn the proceedings for two (2) weeks for the purpose of enabling the petitioners to file a request for such further proceedings. In any case, the petitioners may amend such plan of irrigation at such hearing to meet the approval of the department, or as they may find advisable. It shall be the duty of the county commissioners to notify the department of water resources of the final action, either favorable or unfavorable, taken upon a petition for the formation of an irrigation district.

[(43-107) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374, am. 1915, ch. 89, sec. 1, part of subd. 2374, p. 207; compiled and reen. C.L., 2374d; C.S., sec. 4319; am. 1921, ch. 172, sec. 1, p. 367; I.C.A., sec. 42-107.]

43-108. ORDER OF BOARD. When they shall have determined to proceed with the matter, said board may adjourn such hearing from time to time, not exceeding four (4) weeks in all, and on final hearing may make such changes in the proposed boundaries as they may find proper, and shall make an order on their records describing the lands which they shall have determined to include in said district, and stating that such lands will be organized into an irrigation district if the vote of the electors thereafter to be taken on the proposition shall be favorable to such organization: provided, that any person whose lands are susceptible of irrigation from the same source may, in the discretion of the board, upon application by him, have such lands included in said district.

[(43-108) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374; am. 1915, ch. 89, sec. 1, part of subd. 2374, p. 207; compiled and reen. C.L., sec. 2374e; C.S., sec. 4320; I.C.A., sec. 42-108.]

43-109. DIVISIONS OF DISTRICT FOR ELECTION OF DIRECTORS. (1) Such board shall also make an order dividing the district into not less than three (3) nor more than seven (7) divisions of as nearly equal size as practicable, which shall be numbered first, second, third, etc., and one (1) director, who shall be an elector and resident in the division, shall be elected from each division of the district at large, except that in districts of three thousand (3,000) acres or less the directors may be elected from qualified electors, holding title or evidence of title to land in the district and residing in the county in which some portion of the district is located. The number of divisions into which said district shall be divided shall be specified in the petition for the organization of the district, and if not otherwise specified shall be three (3).

(2) The board of directors of the district may, after approval of a resolution by two-thirds (2/3) of the board, petition the board of county commissioners to modify the boundaries of divisions of the district previously ordered by the board of the county commissioners. The petition shall provide a reason for modifying the division boundaries and a map showing the new proposed boundaries. The divisions shall be of as nearly equal size as possible. No bond or examination by the department of water resources shall be required. The board of county commissioners shall hold a hearing on the petition pursuant to the procedures of section [43-106](#), Idaho Code. The board of county commissioners shall make an order revising the division boundaries as requested by the petition, unless the board of county commissioners finds there is good cause to deny the petition or to modify the division boundaries in a different way.

[(43-109) 1903, p. 150, sec. 2a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2374; am. 1915, ch. 89, sec. 1, last part of subd. 2374, p. 207; reen. C.L., sec. 2374f; C.S., sec. 4321; I.C.A., sec. 42-109; am. 1957, ch. 80, sec. 1, p. 130; am. 2024, ch. 92, sec. 1, p. 431.]

43-110. NOTICE OF ELECTION. Said board shall then give notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this title. Such notice shall describe the lands in said district with the certainty required in an ordinary deed and shall state the name of the proposed district as designated by the board of commissioners, and shall state that a map showing the lands in said district is on file in the office of the board of county commissioners, which map, if not previously made as required herein, shall be made by the petitioners after the determination of said commissioners of the question of what lands shall be included in the proposed district, and if previously made, lands added to said district or deducted therefrom by the board may be indicated thereon. Said notice shall be published for four (4) weeks prior to such election, in a newspaper published within each of said counties as aforesaid. Such notice shall require the electors to cast ballots which shall contain the words "Irrigation district--yes," or "Irrigation district--no," or words equivalent thereto, and also the name of one (1) person from each such division for director of said district.

[(43-110) 1903, p. 150, sec. 2b, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2375; am. 1915, ch. 49, sec. 1, first part of subd. 2375, p. 136; reen. C.L., sec. 2375; C.S., sec. 4322; I.C.A., sec. 42-110.]

43-111. QUALIFICATIONS OF VOTERS -- VOTES BASED ON ASSESSED ACRES. (1) No person shall be entitled to vote at any election held under the provisions of this title for the purpose of electing directors, for the purpose of determining whether indebtedness shall be created or bonds issued by the district, or for any other purpose, unless he shall possess all the qualifications required of electors under the general laws of the state, and own lands that are on the district's assessment book prepared under section [43-701](#), Idaho Code, and be a resident of the county in which the district, or a portion thereof, is located for a period of thirty (30) or more days next preceding the election; provided that the bylaws may, by resolution of two-thirds (2/3) of the board and adoption by two-thirds (2/3) of the electors voting in a district election conducted in accordance with the general election laws of the state applicable to irrigation districts, set forth a provision allowing a district landowner to vote, if the landowner possesses all the qualifications required of electors under the general laws of the state and has resided within fifteen (15) miles of the district for a period of at least thirty (30) days prior to the election.

(2) After approval by a majority of the electors voting upon the issue in a district election conducted using the elector criteria of subsection (1) of this section, in subsequent district elections, a person having the qualifications described in subsection (1) of this section shall have the right to cast one (1) vote for each acre of land on the district assessment book and a proportionate vote for each fraction of an acre of land on the district assessment book owned by him within the district. Co-owners or multiple owners of parcels of land shall cast no more than the total number of votes represented by the acres or fraction of acres of assessed land within the district.

[(43-111) 1903, p. 150, sec. 2b, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2375; am. 1915, ch. 49, sec. 1, last part of subd. 2375, p. 136; reen. C.L., sec. 2375a; C.S., sec. 4323; I.C.A., sec. 42-111; am. 1933, ch. 27, sec. 1, p. 36; am. 1951, ch. 27, sec. 1, p. 39; am. 1982, ch. 254, sec. 11, p. 653; am. 1999, ch. 207, sec. 1, p. 554; am. 2006, ch. 200, sec. 1, p. 616; am. 2007, ch. 160, sec. 1, p. 483; am. 2022, ch. 104, sec. 1, p. 356.]

43-112. CONDUCT OF ELECTIONS. (1) Such election shall be conducted as nearly as practicable in accordance with the general laws of the state: provided, no particular form of ballot shall be required, and that the provisions of the election laws as to the form and distribution of ballots shall not apply.

Said board of county commissioners shall establish one (1) or more election precincts, not exceeding seven (7), as may be necessary, and define the boundaries thereof, which boundaries, when the district is divided into precincts, shall be the same as the division boundaries above-provided for and which said precincts may thereafter be changed by the board of directors of such district as may be necessary: provided, that districts containing more than ten thousand (10,000) acres shall have not less than three (3), nor more than seven (7) voting precincts.

Said board shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties as near as may be as judges of election, under the general laws of the state.

(2) When an irrigation district has duly adopted the voting system set forth in subsection (2) of section [43-111](#), Idaho Code, and a person seeks to vote at any district election, following completion of an electors oath as required by section [43-113](#), Idaho Code, one (1) of the judges of election shall deliver to the elector the number of ballots for the votes the elector is entitled to cast, as shown by the registrar's list of assessed lands within the district.

[(43-112) 1903, p. 150, sec. 3; am. 1907, p. 484, sec. 1; R.C., sec. 2376; am. 1915, ch. 47, sec. 1, p. 134; reen. C.L., sec. 2376; C.S., sec. 4324; am. 1925, ch. 123, sec. 1, p. 169; I.C.A., sec. 42-112; am. 2006, ch. 200, sec. 2, p. 616.]

43-113. REGISTRATION NOT REQUIRED. No registration shall be required in any irrigation district election, but in lieu thereof the judges of election shall require every elector to subscribe to an elector's oath as prerequisite to casting his vote, and such oath shall be the usual elector's oath with the following words added thereto, "and I own land within the irrigation district, and am a resident of the county within which the district, or a portion thereof, is located."

[(43-113) 1903, p. 150, sec. 3; am. 1907, p. 484, sec. 1; compiled R.C., sec. 2376; am. 1915, ch. 47, sec. 1, last part of subd. 2376, p. 134; reen. C.L., sec. 2376a; C.S., sec. 4325; I.C.A., sec. 42-113; am. 1933, ch. 109, sec. 1, p. 170; am. 1951, ch. 27, sec. 2, p. 39.]

43-114. CANVASS OF VOTES -- COMPLETION OF ORGANIZATION. Immediately after any election for voting upon the organization of an irrigation district, the judges of such election shall forward the official results of said election to the clerk of said board of county commissioners. The said board of county commissioners shall meet within ten (10) days after said returns are received, and shall proceed to canvass the votes cast thereat, and if upon such canvass it appears that two-thirds (2/3) of the votes cast are "Irrigation district--yes," the said board shall, by order entered on its minutes, declare such territory duly organized as an irrigation district, under the name and style theretofore designated, and shall declare the persons receiving respectively the highest number of votes for such several offices to be duly elected to such offices.

[(43-114) 1903, p. 150, part of 3a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2377; am. 1915, ch. 143, sec. 2, p. 304; reen. C.S., sec. 2377; C.S., sec. 4326; I.C.A., sec. 42-114.]

43-115. LIMITATION ON PROCEEDINGS AFFECTING VALIDITY. No action shall be commenced or maintained, or defense made affecting the validity of such organization after two (2) years from and after the making and entering of said order on its minutes by the board of county commissioners.

[(43-115) 1903, p. 150, part of sec. 3, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2377; am. 1915, ch. 143, sec. 2, p. 304; compiled and reen. C.L., sec. 2377a; C.S., sec. 4327; I.C.A., sec. 42-115.]

43-116. ORGANIZATION MEETING OF BOARD. Said board shall cause a copy of such order, duly certified, to be immediately filed for record in the office of the county recorder of each county in which any portion of such lands are situated.

If it shall appear, however, that more than one-third (1/3) of said votes are "Irrigation district--no," then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void, and the expenses properly incurred thereunder may be collected on the bond provided for in section [43-104](#), Idaho Code.

From and after the date of such filing of said order of the board of county commissioners, the organization of such district shall be complete. The directors of the district shall be entitled to enter immediately upon the duties of their respective offices, upon qualifying according to law, and shall hold such offices respectively, until their successors are elected and qualified. The board of directors so elected shall meet within thirty (30) days after their election and elect a director to hold the office of president, and shall appoint a secretary and treasurer, who shall perform the duties imposed upon such officers under this title.

[(43-116) 1903, p. 150, part of sec. 3a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2377; am. 1915, ch. 143, sec. 2, p. 304; compiled and reen. C.L., sec. 2377b; C.S., sec. 4328; I.C.A., sec. 42-116; am. 2014, ch. 71, sec. 1, p. 178.]

43-117. TREASURER'S OFFICIAL BONDS. The treasurer shall on his appointment execute and file with the secretary an official bond in such amount as may be fixed by the board of directors of the district, which shall not be less than \$5000; and shall thereafter from time to time execute and file such further bonds as may be required by said board in amounts fixed by it, which amounts shall be of at least fifty per cent (50%) of the maximum probable amount of money in the treasurer's hands at any one time. All such official bonds shall be executed by a lawfully qualified surety company.

[(43-117) 1903, p. 150, part of sec. 3a, as added by 1907, p. 484, sec. 1; reen. R.C., sec. 2377; am. 1915 ch. 143, sec. 2, part of subd. 2377, p. 304; compiled and reen. C.L., sec. 2377c; C.S., sec. 4329; am. 1929, ch. 110, sec. 1, p. 178; I.C.A., sec. 42-117.]

43-118. DISTRICTS INCLUDING LANDS UNDER EXISTING CANALS -- DECREE OF CONFIRMATION -- RIGHTS OF LANDOWNERS -- POWERS OF DISTRICTS. Where the petition or petitions for the organization of any irrigation district now or hereafter organized under the laws of the state of Idaho, includes lands lying under any existing irrigation canal or canals, and entitled to receive water therefrom for irrigation purposes, and such petition or petitions recite that it is proposed to construct or purchase or acquire an interest in any reservoir, or reservoirs constructed, or to be constructed by or in cooperation with the United States or under contract with the United States, the decree of the district court confirming the organization of such irrigation district shall recite such provision of said petition, or petitions, and the landowners of said district who by reason of stock ownership (in the canal company or companies owning or operating any of such existing canal), or otherwise, own or are entitled to the use of canal capacity or a proportionate interest in any such canal, shall be entitled to have delivered into such

canal for the use and benefit of such landowners their proportionate share of the district's share of the stored water from such reservoir in the proportion that their lands are assessed for such reservoir, in such amounts, or at such rate of delivery as may be needed by the landowners not in excess of the amount which can be safely carried through such landowners' proportionate share of such canal, whenever such canal is not being utilized to its full capacity in carrying the natural flow or other water owned or controlled by the canal company operating said canal and the board of directors of such district shall have power to provide by contract for the carriage and distribution of the stored water from such reservoir to the landowners of the district through such existing canals, but such district shall be without power to purchase or condemn or otherwise acquire, or to operate or control any such canal, unless such petition for the organization of such district shall also recite the purpose to acquire such canal or canals.

[(43-118) 1923, ch. 88, sec. 1, p. 100; I.C.A., sec. 42-118.]

43-119. RIGHTS AND PRIVILEGES OF CORPORATIONS -- LIMITED LIABILITY COMPANIES -- PARTNERSHIPS -- TRUSTS. A corporation, the stock of which is owned entirely by natural persons related by blood or affinity, a limited liability company, in which all the members are natural persons related by blood or affinity, a partnership, in which all the partners are natural persons related by blood or affinity, and a trust, in which all of the beneficiaries are natural persons related by blood or affinity, shall have the same rights and privileges in the conduct of irrigation district business as do natural persons, including, but not limited to, voting in elections and signing petitions. A corporation shall vote or otherwise act through its majority shareholder; a limited liability company shall vote or otherwise act, if member-managed, through its member and, if manager-managed, through its manager; a partnership shall vote or otherwise act through its majority partner; a trust shall vote or otherwise act through its trustee. For voting purposes the residence of such person shall establish the residence of the corporation, limited liability company, partnership or trust. If there is no single majority stockholder, no single majority member, no single manager, no single majority partner or no single trustee, then the corporation, limited liability company, partnership or trust must furnish the irrigation district a written designation stating the name of the stockholder, manager or member, partner or trustee who is authorized to vote and otherwise act for the corporation, limited liability company, partnership or trust, respectively. If the majority or designated stockholder, manager or member, partner or trustee is married, his or her spouse shall have the same rights and privileges in the conduct of irrigation district business as do the spouses of individual land owners in the district. A person, or the spouse of a person, voting for a corporation, limited liability company, partnership or trust shall not be entitled to vote again as an individual.

[43-119, added 1983, ch. 49, sec. 1, p. 120; am. 2010, ch. 142, sec. 1, p. 299; am. 2013, ch. 333, sec. 1, p. 870.]