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collect the same at the time fixed in said resolution: and, provided further, that if said water users have by resolution provided that no water shall be delivered to any water user until the amount due from such user has been paid, the notice, to be mailed by said county treasurer or watermaster, shall also state the substance of said resolution. [C.S., § 5615-B, as added by 1929, ch. 87, § 1, p. 140; I.C.A., § 41-517; am. 1992, ch. 339, § 19, p. 1014.]

Compiler's notes. The name of commissioner of reclamation has been changed to director of the department of water resources on authority of S.L. 1974, ch. 20, § 1 and S.L.

1974, ch. 20, § 28 (§ 42-1801a).

Section 2 of S.L. 1929, ch. 87 declared an emergency.

42-618. Alternate plan of collecting expenses in water districts.

— In water districts the water users, instead of following the provisions of sections 42-612, 42-613, 42-615, 42-616, and 42-617, Idaho Code, may, at any annual meeting, authorize the watermaster to collect his compensation and that of his assistants, and other expenses of delivering the water of said district to the users thereof, directly from the water users, canal companies, and irrigation districts. When so authorized the watermaster shall collect such compensation and expenses directly from the water users and shall turn the collected funds over to the water district treasurer for deposit and disbursement in accordance with section 42-619, Idaho Code. The water users in such water districts may also, at any annual meeting, authorize the watermaster to withhold water deliveries or suspend water deliveries in the event delivery has commenced, from those users who have not paid their pro rata share of the cost of operating the district as levied until such time as said pro rata share of the cost is paid. Said water district shall have the right to collect any charges due and unpaid, by civil action, said action to be brought in any court of competent jurisdiction, in the name of the watermaster to whom such charges are payable, and in addition to the amount found due, together with interest and costs, may also recover such sum as the court may adjudge reasonable as attorney's fees in said action. [1947, ch. 11, § 1, p. 51; am. 1969, ch. 305, § 3, p. 913; am. 1992, ch. 339, § 20, p. 1014.]

Compiler's notes. Section 2 of S.L. 1969, ch. 305 is compiled herein as § 42-607.

Sec. to sec. ref. This section is referred to in § 42-605A.

Opinions of Attorney General. Idaho law provides four alternative methods for the collection and disbursement of water district funds: (1) the county auditor and treasurer may collect and disburse the assessments; (2) the county auditor and treasurer may collect the assessments, and the water district treasurer may hold and disburse the water district funds; (3) the watermaster may collect the assessments, and the county treasurer may hold and disburse the assessments; (4) the watermaster may collect the funds, and the water district treasurer may hold and

disburse the assessments; Idaho law does not permit the watermaster to act as treasurer for a water district, thus, Water District 1's present practice of allowing the watermaster to also serve as treasurer is not permissible. OAG 91-7.

This section merely replaced the procedures for collection of monies stated in other sections with the alternative collection procedures provided by this section and the other sections otherwise remained in effect; thus, if a water district only elects to proceed under this section, the county treasurer retains the authority to hold and disburse the funds of the water district and not the watermaster. OAG 91-7.

Water District 1 funds and to make disbursements from these funds; the district treasurer is prohibited by the provisions of the Public Depository Law from investing any district

funds in common stocks, corporate bonds, mutual funds and other types of equity securities. OAG 91-7.

42-619. Alternate plan for payment of district expenses. [Effective January 1, 1997.] — (1) The county commissioners of any county having determined that providing the service of payment of water district expenses by the county treasurer from water district funds pursuant to section 42-613, Idaho Code, is an undue burden upon the county and shall no longer be provided, shall notify the director of the department of water resources of this action by December 1 in the year preceding the year for which the action shall first be effective by providing to the director a certified copy of the resolution of the commissioners taking such action.

(2) Notice of the action of the county commissioners shall be given to the water users of the district by the department of water resources together with the notice of the annual meeting given pursuant to section 42-605, Idaho Code.

(3) At each annual meeting of a district for which the county commissioners have taken the action provided for in subsection (1) of this section, the water users shall provide for the election or appointment of a water district treasurer. If a water district treasurer is not elected at the annual meeting, and one is found to be necessary, the director of the department of water resources shall appoint a water district treasurer. The water district treasurer shall keep a complete, accurate and permanent record of all moneys received by and disbursed for and on behalf of the district. The water district treasurer shall deposit all moneys of the district in a designated depository approved at the annual meeting, and shall comply with the public depository law as contained in chapter 1, title 57, Idaho Code.

(4) Before undertaking the duties of the office, the water district treasurer shall take and subscribe to an oath before an officer authorized by the laws of the state to administer oaths, to faithfully perform the duties of the office, and shall file the oath with the director of the department of water resources. Upon issuance by the director of a certificate confirming the election or appointment of a water district treasurer, the actions taken by the water district treasurer in fulfillment of the duties of the office are covered by the state group surety bond as provided in sections 59-801 through 59-804, Idaho Code.

(5) The water district treasurer shall serve until a successor is elected or appointed, and qualified. A water district treasurer may be removed from office by the director for failure to perform the duties of the office in the manner provided for removal of a watermaster.

(6) Compensation for the services of the water district treasurer shall be set at the annual meeting and may be established on a fixed-sum, per diem, or voluntary basis. If a water district treasurer is appointed by the director in the absence of being elected at the annual meeting, the director shall fix the compensation to be paid, if any.

(7) With respect to any district for which the county commissioners have taken the action provided for in subsection (1) of this section, or for which

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the water users have taken the action provided for in subsection (10) of this section and have notified the county thereof, the county auditor shall in the time and manner provided by section 63-1202, Idaho Code, transmit to the water district treasurer of the water district a settlement of all moneys belonging to such district paid into the county treasury and apportioned to such water district on or after the second Monday of the preceding month; provided, however, that in the months of July and January the money may be transmitted no later than the 25th of the month. The treasurer of the water district shall immediately deposit the funds in the designated depository for the district.

(8) The treasurer of the water district shall only disburse moneys from the water district account upon submission of a written voucher approved by the watermaster for expenses incurred for water district purposes related to the delivery of water or by a voucher approved by the chairman of the advisory committee for activities pursuant to resolutions adopted by the water users from district funds or funds retained pursuant to section 42-613A, Idaho Code.

(9) It shall be the duty of the water district treasurer to prepare a statement of the financial affairs of the district at the end of each fiscal year and to file the statement with the director of the department of water resources. An audit of the financial affairs of the district shall be made as required in section 67-450B, Idaho Code. A certified copy of the audit shall be filed with the director of the department of water resources following the audit.

(10) In any water district for which the county commissioners have not taken the action provided for in subsection (1) of this section, the water users may at the annual meeting of the district approve a resolution authorizing the election or appointment of a water district treasurer who shall exercise all duties and responsibilities of a treasurer provided for in this section.

(11) In water districts with an annual budget of three thousand dollars (\$3,000) or less, the water users may by resolution adopted at the annual meeting authorize the watermaster to serve as water district treasurer. Watermasters in water districts with annual budgets in excess of three thousand dollars (\$3,000) shall not be authorized to act as water district treasurer. [I.C., § 42-619, as added by 1989, ch. 286, § 2, p. 710; am. 1992, ch. 339, § 21, p. 1014; am. 1993, ch. 387, § 11, p. 1417; am. 1996, ch. 322, § 36, p. 1029.]

Compiler's notes. For this section as effective until January 1, 1997, see the preceding section, also numbered § 42-619.

Sections 35 and 37 of S.L. 1996, ch. 322 are compiled as §§ 39-1334 and 42-3215, respectively.