

STATEMENT OF PURPOSE

RS31232 / S1339

This legislation updates chapters 11 and 12 of Title 42 and one section of Title 18 that address ditch rights-of-way (ROW), operation and maintenance duties, interference and encroachments. This legislation: consolidates provisions that pertain to the same subject; repeals antiquated provisions that are no longer in use, and clarifies provisions based on recent Idaho Supreme Court decisions and contemporary experience: (1) laterals and drains will be added to the chapter 11 statutes that deal with ditch ROW existence, establishment and rights; (2) the circumstances in which a land owner has notice of a ditch ROW will be clarified in 42-1102(3); (3) ditch operation and maintenance duties will be defined in one statute (I.C. 42-1201), rather than five (I.C. 42-1102(3), 42-1201, 42-1202, 42-1203, 42-1204); (4) the following antiquated provisions will be repealed: I.C. 42-1108 (right to cross ditches); I.C. 42-1205 (bridges over ditches); I.C. 42-1206 (repair of community ditches), and (5) the written permission, encroachment removal and “self-help” provisions (as interpreted by the Idaho Supreme Court in *Pioneer v. Caldwell*, 153 Idaho 593, at 599-600 (2012)) are codified in the ditch encroachment provisions of 42-1102(5) and 42-1209(2), and in the ditch relocation and piping provision on 42-1207(1)(e) (addressing the Idaho Supreme Court’s decision in *Hood v. Poorman*, 519 P.3d 769 2022, to make it clear that the ditch owner’s “self-help” remedy applies to ditch relocation and piping as well as ditch ROW encroachments).

FISCAL NOTE

This legislation will have no impact on the state’s general fund or any dedicated fund or federal fund, because it does not affect the operations or activities of any state agency.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).