

IN THE SENATE

SENATE BILL NO. 1136

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1  
2 RELATING TO WATER; AMENDING CHAPTER 15, TITLE 42, IDAHO CODE, BY THE ADDITION  
3 OF A NEW SECTION 42-1508, IDAHO CODE, TO PROVIDE FOR MINIMUM STREAM FLOW  
4 WATER RIGHTS IN DESIGNATED REACHES OF THE BIG WOOD RIVER AND THE LITTLE  
5 WOOD RIVER AND TO PROVIDE FOR THE DISTRIBUTION OF DONATED WATER; AMENDING  
6 CHAPTER 17, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
7 42-1765B, IDAHO CODE, TO PROVIDE FOR CERTAIN DONATED WATER RIGHTS, TO PRO-  
8 VIDE FOR A LOCAL COMMITTEE AND TO PROVIDE FOR THE COLLECTION OF WATER DIS-  
9 TRICT EXPENSES; TO PROVIDE FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE  
10 AND TO PROVIDE FOR DISCRETIONARY ACTION BY THE WATER RESOURCE BOARD.

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

12 SECTION 1. That Chapter 15, Title 42, Idaho Code, be, and the same is  
13 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
14 ignated as Section 42-1508, Idaho Code, and to read as follows:

15 42-1508. WOOD RIVER BASIN -- ENHANCEMENT OF INSTREAM FLOWS AND DOWN-  
16 STREAM WATER SUPPLIES. (1) The water resource board is hereby authorized and  
17 directed to appropriate and hold in trust for the people of the state of Idaho  
18 minimum stream flow water rights in designated reaches of the Big Wood River  
19 and the Little Wood River for the purpose of preserving, restoring and *2008*  
20 enhancing fish and wildlife habitat, aquatic life, recreation, aesthetic  
21 beauty, navigation, transportation and water quality, and to enhance the water  
22 supply for other existing downstream water rights, in accordance with the pro-  
23 visions of this section. The designated reaches are in the Big Wood River  
24 immediately below the Bellevue diversion (45 district canal) downstream to the  
25 United States geological survey gage station number 13140800, located below  
26 Stanton Crossing and above Magic Reservoir; and in the Little Wood River from  
27 the confluence of Silver Creek downstream to the U.S. bureau of land manage-  
28 ment diversion located near the city of Richfield.

29 (2) The water resource board is authorized and directed to appropriate  
30 minimum stream flow water rights in amounts up to sixty (60) cfs in the desig-  
31 nated reach of the Big Wood River, and up to seventy-four (74) cfs in the des-  
32 ignated reach of the Little Wood River under this section and in accordance  
33 with the provisions of section 42-1503, Idaho Code. In acting upon the appli- *no*  
34 cations for permit, the director of the department of water resources need not *injury*  
35 determine that the appropriations are capable of being maintained based upon  
36 records of existing stream flows, because it is anticipated that the water  
37 rights will be satisfied and maintained over time through the donation of  
38 water rights to the board and the operation of the water supply bank within  
39 the Wood River basin consistent with the provisions of section 42-1765B, Idaho  
40 Code. In addition, the director need not determine that the appropriations  
41 meet a minimum amount as defined in section 42-1502(f), Idaho Code, or limit  
42 appropriations that might exceed such an amount, because of the need to ful-  
43 fill the purpose of enhancing water supplies for other existing downstream

1 water rights.

2 (3) Upon the water resource board's filing of the applications as  
3 directed by this section, the director is authorized and directed, on an  
4 interim basis pending final action on the applications, to distribute any  
5 water donated pursuant to section 42-1765B, Idaho Code, consistent with the  
6 provisions of this section and section 42-1765B, Idaho Code.

7 SECTION 2. That Chapter 17, Title 42, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
9 ignated as Section 42-1765B, Idaho Code, and to read as follows:

10 42-1765B. WOOD RIVER BASIN -- WATER RIGHTS DONATED TO ENHANCE INSTREAM  
11 FLOWS AND DOWNSTREAM WATER SUPPLIES -- LOCAL COMMITTEE. (1) The water resource  
12 board is authorized to accept the donation by gift, grant or bequest of water  
13 rights, in whole or in part, from the Big Wood River upstream of the United  
14 States geological survey gage station number 13140800 located below Stanton  
15 Crossing and above Magic Reservoir, and from Silver Creek tributary to the  
16 Little Wood River, and to place eligible portions of the water rights into the  
17 water supply bank. Section 42-1765, Idaho Code, and the board's water supply  
18 bank rules shall apply to the operation of the water supply bank in the Wood  
19 River basin, except as inconsistent with this section.

20 (2) The board shall appoint a local committee to facilitate donations of  
21 eligible water rights. The local committee shall be comprised of the following  
22 ten (10) voting members: Four (4) representatives from the water district  
23 37/37M advisory committee (one (1) representative from the Northside canal  
24 company, one (1) representative from the Big Wood canal company, one (1) rep-  
25 resentative from district 37 upper basin (Big Wood), and one (1) representa-  
26 tive from district 37M (Silver Creek, Little Wood)); the water district 37/37M  
27 watermaster; one (1) representative each from Blaine, Lincoln and Gooding  
28 counties; one (1) conservation representative from the Wood River legacy proj-  
29 ect steering committee; and one (1) representative from a Wood River basin  
30 conservation interest.

31 (3) Upon acceptance of the ownership of the donated rights by the board,  
32 the appointed local committee shall have authority to accept the water rights,  
33 in whole or in part, into the water supply bank.

34 (4) Donated water rights may be accepted into the water supply bank to  
35 satisfy the board's minimum stream flow water rights authorized under section  
36 42-1508, Idaho Code, and to satisfy existing minimum stream flow water rights  
37 previously appropriated by the board on Silver Creek and the Big Wood River;  
38 provided, that the director of the department of water resources, upon recom-  
39 mendation of the local committee, determines that there will be an equivalent  
40 reduction in the extent of beneficial use made under the donated water right,  
41 and that injury will not result to other water rights. For purposes of water  
42 rights distribution under chapter 6, title 42, Idaho Code, water rights  
43 donated pursuant to this section shall retain their respective priority dates;  
44 provided however, that the local committee will recommend and the director  
45 shall condition or limit the use of donated water rights as necessary to avoid  
46 injury to other water rights, and the provisions of section 42-1766, Idaho  
47 Code, shall apply to any appeals by water right holders regarding the use of  
48 the donated water rights.

49 (5) For purposes of this section, the board and local committee may not  
50 accept for enhanced flows in the Big Wood River any water rights currently  
51 diverted into the Bellevue triangle via the 45 district canal (Bellevue diver-  
52 sion).

53 (6) Water rights placed into the water supply bank from the Silver Creek

*local  
Committee*

*no  
injury*

*Conditions  
by  
director*

1 and Little Wood River portions of the Wood River basin pursuant to this sec-  
2 tion may only be used to increase stream flows in Silver Creek and the Little  
3 Wood River.

4 (7) The watermaster for water district 37/37M shall collect water dis-  
5 trict expenses pursuant to chapter 6, title 42, Idaho Code, from the water  
6 users receiving water as a result of enhanced downstream water supplies pro-  
7 vided pursuant to this section, as determined by the watermaster for water  
8 district 37/37M in cooperation with the local committee.

9 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared  
10 to be severable and if any provision of this act or the application of such  
11 provision to any person or circumstance is declared invalid for any reason,  
12 such declaration shall not affect the validity of the remaining portions of  
13 this act.

14 SECTION 4. This act shall be in full force and effect on and after July 2008  
15 1, 2008; provided however, that the local committee authorized in Section 2 of  
16 this act may be appointed by the Water Resource Board and begin meeting for  
17 administrative purposes in 2007.