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**March 7, 2011**

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**Special points of interest:**

- Antidegradation debate moves to floor of Senate

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# 2011 Legislative Reports



Today marks the 57th legislative day. The process is on schedule, moving steadily, but slowly forward while the budget remains the dominant issue. The biggest budgets have to yet set and there is concern that Education and Health & Welfare potentially face additional cuts. But, based on the last 10 years of writing this report, it seems that by now we would usually have more legislation to follow and more to report on.

Most legislation, including Idaho Department of Water Resources and Department of Environmental Quality's, is moving through the House and Senate with little or no opposition. The possible exception is fees. While it is only an observation, it appears that, at least in the House of Representatives, any proposed fee increase is being met with opposition by roughly one-third of the representatives. It appears that 20 to 25 votes out of 70 are being cast against any proposed fee. While it has not been a problem so far, it could become one in the Senate if there is pressure from stakeholders.

While waiting for the budget process to move forward, there is an opportunity to become better acquainted with new legislators. There are 20 newly-elected or appointed representatives and senators out of 105, accounting for roughly 19%. New legislators, collectively but not necessarily individually, appear to be somewhat more conservative than their predecessors or perhaps it is just indicative of the economic situation.

The Antidegradation rule and its companion bill, HO153, received a hearing today in the Senate Resource & Environment Committee. The rule was approved with certain sections rejected through concurrent resolution while the bill reported out with a "Do Pass" recommendation. The vote was 7 to 2 along party lines. In addition to testimony from Idaho Association of Commerce and Industry, several stakeholder groups testified about the negotiated rulemaking process and their concerns about potential impacts to cities and industry. Justin Hayes, Idaho Conservation League (ICL), advised the committee that, in their opinion, it was questionable as to whether the U.S. Environmental Protection Agency (EPA) would approve the changes. He said that adopting the rule and bill as presented would likely result in further legal action from ICL.

## CALENDAR

**Monday, March 7**

**Senate Resource & Conservation**, WW55, 1:30 p.m. Antidegradation Rule & HO153

**Tuesday, March 8**

**House State Affairs:** RS20548  
Leasing of Water./Stevenson,  
EW40, 8 a.m.

JFAC Budget Setting/IDWR  
C310, 8 a.m.

**Ag Lobbyists**, Lock, Stock & Barrel - Noon

**Wednesday: March 9**

**Food Producers**  
Idaho Grain Center, 8:30 a.m.

**Food Producers Legislative Luncheon**, Yen Cheng, - Noon

**Thursday: March 10**

Idaho Water Resource  
Board, Work Session,  
Idaho Water Center,  
8:30 a.m.

**Friday: March 11**

Idaho Water Resource  
Board, Idaho Water Center,  
8:30 a.m.

**Water Legislation—House**

**H0022-WATER RIGHT LICENSES** Amends existing law relating to water right licenses to delete the requirements that licenses be issued under the seal of the office of the Department of Water Resources and that licenses bear the capacity of the diverting works. **House:** 01/20 Introduce/Print 01/21 To Resource & Conservation 02/24 Report out “Do Pass” 02/25 To 3rd reading 3/02 PASSED 69-1-0  
**Senate:** 03/03 Introduce/Resource & Environment  
<http://legislature.idaho.gov/legislation/2011/H0022.htm>

**H0023-WELLS** Amends existing law relating to drilling permits to revise fee provisions, to provide for the use of certain permit fees, to authorize the director of the Department of Water Resources to provide blanket drilling permits for closed loop heat exchange wells and to provide that the applications for blanket permits for site specific monitoring programs shall include specified design proposals. **House:** 01/20 Introduce/print 01/21 To Resource & Conservation 02/24 Report out “Do Pass” 02/25 To 3rd reading 03/02 PASSED 52-18-0  
**Senate:** 03/03 Introduce/Resource & Environment  
<http://legislature.idaho.gov/legislation/2011/H0023.htm>

**H0024-WATER** Amends existing law relating to water to delete the requirement that copies of notices be sent by ordinary mail to certain persons, to provide for notices that are accessible from the Internet homepage of the Department of Water Resources, to clarify that published notices are the official notices and to provide that any errors or omissions in notices displayed on the Internet homepage shall not invalidate the published notices **House:** 01/20 Introduce/Print 01/21 To Resource & Conservation 02/24 Report out “Do Pass” 02/25 To 3rd reading 03/02 PASSED 70-0-0 **Senate:** 03/03 Introduce/Resource & Environment  
<http://legislature.idaho.gov/legislation/2011/H0024.htm>

**H0025-WATER** Amends existing law relating to permits to appropriate water to revise provisions and requirements relating to submission of proof of beneficial use statements submitted more than sixty days after notice of lapsing and to provide for the reinstatement of such permits and the advancement of priority dates. **House:** 01/20 Introduce/Print 01/21 To Resource & Conservation 02/24 Report out “Do Pass” 02/25 To 3rd reading 03/02 PASSED 63-7-0  
**Senate:** 03/03 Introduce/Resource & Environment  
<http://legislature.idaho.gov/legislation/2011/H0025.htm>

**H0031-WATER** Amends existing law relating to water to revise a fee relating to applications for amendment of permit and to provide for fees for filing applications to change the point of diversion, place, period or nature of use of water under a vested water right; to revise a provision relating to information contained in certain applications to change a water right being deemed in compliance with specified notification provisions and to provide for applicability of specified fee requirements. **House:** 01/20 Introduce/Print 01/21 To Resource & Conservation 02/24 Report out “Do Pass” 02/25 To 3rd reading 03/02 PASSED 47-23-0  
**Senate:** 03/03 Introduce/Resource & Environment  
<http://legislature.idaho.gov/legislation/2011/H0031.htm>

**CALENDAR**  
**UPCOMING EVENTS**

**March 17:**

Antidegradation Draft Guidance Advisory Committee, Boise, IDEQ Hdqtrs, 8:30 a.m. (*rescheduled from 3/10/11*)

**March 15:** Treasure Valley CAMP, Boise, USGS Conference Rm, 8:30 a.m.

**March 16:** Treasure Valley CAMP, Boise, IDWR Conference Rm, 8:30 (*if necessary*)

**May 4-6:** PNWS-AWWA, Boise Centre on the Grove Registration open now: [www.pnws-awwa.org](http://www.pnws-awwa.org)

**May 5:** Drinking Water & Wastewater Professionals Board, IBOL "Idaho Room", 8:30 a.m. to 5 p.m.

**May 24-25:** 2011 Idaho Water Reuse Conference Boise, DoubleTree Hotel Riverside

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## Water Legislation—House

**HO042-OUTSTANDING RESOURCE WATERS** *Replaced by HO153*

**HO094-INJECTION WELLS** Amends existing law relating to injection wells to revise terminology to provide for deep injection wells; and to delete an exemption from notice of construction filing requirements and fees for certain new shallow injection wells. **House:** **02/03** Introduce/Print **02/04** To Resource & Conservation **02/22** Report out "Do Pass" **02/25 PASSED 62-3-5**

**Senate:** **02/28** Introduce/Resource & Environment **03/07** Hearing rescheduled to 03/09 <http://legislature.idaho.gov/legislation/2011/H0094.htm>

**HO107-AQUIFER PROTECTION DISTRICTS** Amends existing law relating to Aquifer Protection Districts to revise provisions relating to fees, to provide that fees shall not be charged to owners of nondeveloped properties and to restrict the amount of fees that a district may retain at any time. **HOUSE:** **02/04** Introduce/Print **02/07** To Resource & Conservation <http://legislature.idaho.gov/legislation/2011/H0107.htm>

**HO136-WATERMASTERS** Amends existing law relating to water to revise verbiage relating to the removal of watermasters; to provide term of service provisions relating to watermasters; to revise provisions relating to proposed budgets; and to revise provisions relating to those districts that may authorize watermasters to serve as water district treasurers. **House:** **02/10** Introduce/Print **02/11** To Resource & Conservation **02/22** Report out "Do Pass" **02/25 PASSED 66-0-4**  
**Senate:** **02/28** Introduce/Resource & Environment <http://legislature.idaho.gov/legislation/2011/H0136.htm>

**HO137aa ALTERATION OF CHANNELS OF STREAMS** Amends existing law relating to the alteration of channels of streams to provide that in specified situations, no permit shall be required by the state or any agency or political subdivision thereof from a water user or his agent. **House:** **02/10** Introduce/Print **02/11** To Resource & Conservation **02/22** To General Orders **02/24** Report out amended **02/25** 1st to 2nd reading as amended **03/04 PASSED 56-11-3**  
**Senate:** <http://legislature.idaho.gov/legislation/2011/H0137.htm>

**HO138-IRRIGATION** Amends existing law relating to irrigation to provide that the heirs, executors, administrators, successors and assigns of a landowner who makes a change in a ditch, canal, lateral, drain or buried irrigation conduit, buries the ditch, canal, lateral or drain of another in pipe or directs the relocation of conduit shall be responsible for certain costs, and to remove the requirement that agreements relating to the relocation of conduit be in writing. **House:** **02/10** Introduce/Print **02/11** To Resource & Conservation **02/22** Report out "Do Pass" **02/25 PASSED 66-0-4**  
**Senate:** **02/28** Introduce/Resource & Environment <http://legislature.idaho.gov/legislation/2011/H0138.htm>

## Water Legislation—House cont'd

**HO153-WATER QUALITY** Amends existing law relating to water quality to provide a policy relating to Tier I, II and III protections associated with water quality; to provide for an antidegradation review associated with the issuance of certain general permits, to provide that the department may presume certain discharges are insignificant or that certain pollution controls are the least degrading alternative if supported by the permit record; to provide for the identification of Tier II waters; to provide for the determination of appropriate levels of protection; to provide that the department shall determine whether certain activities or discharges are insignificant; and to provide for the approval of specified rules. **House: 02/23 PASSED 54-14-2**

**Senate: 02/24** Introduce/To Resource & Environment **03/07** Report out “Do Pass”

<http://legislature.idaho.gov/legislation/2011/H0153.htm>

## Energy Legislation—House

**H0052- GEOTHERMAL RESOURCES** Amends existing law relating to geothermal resources to authorize the State Board of Land Commissioners to issue geothermal resource leases for terms of up to forty-nine years on certain state or school lands and to delete reference to other term of lease provisions.

**House: 2/18 PASSED 60-0-10**

**Senate: 02/21** Introduce/Resource & Environment **03/01** Report out “Do Pass” **03/03 PASSED 32-0-3**

<http://legislature.idaho.gov/legislation/2011/H0052.htm>

**H0053-GEOTHERMAL RESOURCE LEASES** Amends existing law relating to geothermal resource leases to revise provisions relating to the manner of fixing rentals and to provide for royalties.

**House: 2/18 PASSED 60-0-10**

**Senate: 02/21** Resource & Environment **03/01** Report out “Do Pass” **03/03 PASSED 32-0-3**

<http://legislature.idaho.gov/legislation/2011/H0053.htm>

**H0054—GEOTHERMAL LEASES** Amends existing law relating to geothermal leases to revise provisions relating to the surface area of geothermal leases.

**House: 2/18 PASSED 60-0-10**

**Senate: 02/21** Introduce/Resource & Environment **03/01** Report out “Do Pass” **03/03 PASSED 34-0-1**

<http://legislature.idaho.gov/legislation/2011/H0054.htm>

**H0056-GEOTHERMAL RESOURCES-BONDING** Amends existing law relating to geothermal resources to revise bond provisions relating to damages to the land surface and improvements thereon, to provide for bonds relating to reclamation and to clarify that bonds shall not duplicate certain bonds for well closure.

**House: 02/21 PASSED 68-0-2**

**Senate: 02/22** Introduce/Resource & Environment **03/01** Report out “Do Pass” **03/03 PASSED 34-0-1**

<http://legislature.idaho.gov/legislation/2011/H0056.htm>

## Energy Legislation—House cont'd

**HO208-COUNTY-BASED RENEWABLE ENERGY COMMERCE AUTHORITIES** Adds to existing law relating to county-based renewable energy commerce authorities to authorize a county-based renewable energy commerce authority, to provide for establishment and abolishment, to provide for combined intermodal and renewable energy authorities, to provide for commissioners, to provide for the cooperation of counties, to set forth powers, to provide for the granting of operation and use privileges, to provide for the disposal of property to provide for bonds and obligations, to provide for the creation of a Debt Service Fund and to set forth provisions relating to federal, state and local money. **House: 02/28** Introduce/Print **03/01** State Affairs  
<http://legislature.idaho.gov/legislation/2011/H0208.htm>

## Senate—WATER

**S1077-DRAINAGE DITCHES** Adds to existing law relating to drainage districts to provide for petitions for consolidation; to provide for hearing; to provide for objections; to provide for orders; and to provide for the appointment of commissioners. **Senate: 02/23 PASSED 34-0-1 House: 02/24** Introduce/Resource & Conservation **03/02** Report out “Do Pass” **03/03** To 3rd reading  
<http://legislature.idaho.gov/legislation/2011/S1077.htm>

## ENERGY—Senate

**S1035 RENEWABLE ENERGY SITING PERMITS** Adds to existing law to provide an expedited permitting process from the state and local governments for renewable energy projects.  
**Senate: 01/21** Introduce/Print **01/24** State Affairs  
<http://legislature.idaho.gov/legislation/2011/S1035.htm>

**S1058 BOARD OF ENVIRONMENTAL QUALITY** Amends existing law relating to the Idaho Board of Environmental Quality to provide that municipalities and community and nonprofit noncommunity public drinking water systems shall agree to provide for full amortization of loans not later than thirty years from the date project construction is completed regarding contracts between the board and such entities concerning eligible construction projects. **Senate: 02/17 PASSED 33-0-2 House: 02/25 PASSED 57-9-4 03/03** To Governor  
<http://legislature.idaho.gov/legislation/2011/S1058.htm>

**S1112 SCHOOL DISTRICTS-ALTERNATIVE ENERGY** Amends existing law relating to school districts and alternative energy to revise the types of renewable energy school districts may own, maintain or contract for and to provide for sales of excess electrical energy from renewable sources. **Senate: 02/14** Introduce/Print **02/15** State Affairs  
<http://legislature.idaho.gov/legislation/2011/S1112.htm>

## RESOLUTIONS

**HCR003-NATURAL RESOURCE ISSUES-** Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study of natural resource issues.

**House: 02/01 ADOPTED 65-0-5 Senate: 02/02** Introduce/To Resource & Environment **02/15** Report out “Do Pass”  
**02/16** To 10th Order **02/21** Ret'd to Resource & Environment

<http://legislature.idaho.gov/legislation/2011/HCR003.htm>

### **HCR004-ENERGY, ENVIRONMENT & TECHNOLOGY ISSUES-STUDY**

Stating findings of the Legislature and authorizing an interim legislative study committee on energy, environment and technology issues. **House: 02/08 ADOPTED 66-0-4 Senate: 02/15 ADOPTED 35-0-0**

**02/22** Delivered to Secretary of State

<http://legislature.idaho.gov/legislation/2011/HCR004.htm>

**HCR16-ENVIRONMENTAL QUALITY DEPARTMENT—RULES** Stating findings of the Legislature and rejecting certain rules of the Department of Environmental Quality relating to Water Quality Standards.

**House: 02/23** Introduce/Print **03/03 ADOPTED 57-12-1 Senate: 03/03** Introduce/Resource & Environment

**SCR101-AQUATIC NUISANCE SPECIES** Stating findings of the Legislature expressing that the state of Idaho and its citizens are concerned with the threat of aquatic nuisance species and will collectively strive to educate and prevent the contamination of Idaho's public lakes, streams, rivers and creeks, and encourage industry and recreationists around the world to be aware that Idaho takes the responsibility to protect and preserve its natural resources very seriously. **Senate: 02/09** Introduce/Print **02/11** 10th Order **02/11** Agricultural Affairs

<http://legislature.idaho.gov/legislation/2011/SCR101.htm>

## RULES REVIEW

### **IDWR**

**37-0310-1001** Well Driller Licensing

**37-0203-1001** Water Supply Bank Rules

### **IDEQ**

**58-0102-1001** Water Quality Standards ( Antidegradation )

**58-0108-1001** Public Drinking Water *final and effective upon adjournment*

**58-0117-1001** Reclamation and Reuse of Municipal and Industrial Wastewater *Final and effective pending adjournment*

**58-0120-0901** Administration of Drinking Water Loan Program *final and effective upon adjournment*

## Appointments

Robert “Bob” C. Barowsky, Idaho Fish & Game Commission

Randall C. Budge, Idaho Fish & Game Commission