

Idaho Legislative Session Update

March 31, 2023

AG BMP, WQPA & WATER PROJECTS FUNDING H361 is an appropriation bill the Treasure Valley Water Users Association has been working to provide \$150 million in funding for the Water Management Account and \$2 million for the Agricultural Best Management Practices Fund (Ag BMP Fund). The \$150 million will go to the Idaho Water Resources Board for them to utilize for additional water infrastructure grants and loans and for our irrigation delivery entities to apply for these funds to improve their irrigation delivery systems. The \$2 million for the Ag BMP Program will go to the Department of Environmental Quality to help continue funding for on-farm water quality projects.

H352- The Senate passed H352 which was legislation the Treasure Valley Water Users Association promoted. H352 allocates \$5 million in funding to the Idaho Soil and Water Conservation Commission to fund the Water Quality Program for Agriculture (WQPA). Grants for this Program will be available during the month of May through the Commission and the local Soil and Water Conservation Districts. This is the second year that WQPA funding for \$5 million has been allocated for on-farm water quality improvement projects and for small water infrastructure projects for irrigation delivery entities.

THE END IS NEAR – SINE DIE All indications are that today will be the final day of the 2023 session—at least for regular business. March 31 marks the eighty-second day of the 1st session of the 67th Legislature. We anticipate that both Houses will simply adjourn and then return on Thursday, April 6 to consider any bills that the Governor may veto. The general sentiment yesterday was that they did not want to be in session on Good Friday and wanted to be home for the Easter weekend. At that time, we anticipate the legislature will Sine Die a Latin term meaning - the conclusion of a meeting by a deliberative assembly, such as a legislature or organizational board, without setting a day to reconvene. A ballot measure that passed during the November general election would allow the Idaho Legislature to call itself back into session within 15 days of a written request by 60% of the members of the Idaho House of Representatives and 60% of the members of the Idaho Senate.

ADMINISTRATIVE RULES- State agencies have the duty to promulgate administrative rules. Administrative rules have the force and effect of law but are created by agencies within the executive branch of government. Normally the legislature passes intent language through statute that can guide the agencies in crafting the rules with stakeholder input. The volume and complexity of administrative rules has become cumbersome for a part time legislature to address on a yearly basis, and legislative responsibility in this regard must be addressed sooner rather than later. Recent practice has transpired so that the Legislature approves the entirety of the Idaho administrative rules structure every year.

H206a would place all administrative rules on an eight-year expiration cycle and improve transparency in the process. This will have the benefit of ensuring that each rule is periodically reviewed for continued relevance and applicability. The eight-year cycle would also enable agencies, the Division of Financial Management, and the Legislature to spread this work out over time, rather than the current practice of the Legislature approving the administrative rules each year. Further, H206aa would place into statute the requirement that all agencies would need to provide a virtual option through video conferencing or at a minimum a telephone option to allow oral public testimony on their administrative rule proposals. Ideally, this would allow more involvement of Idahoans living outside the Treasure Valley.

Finally, H206 would also require the agency to post the recording of the public hearing on the agency's website for at least three years. This allows interested parties to review the meetings if they are unable to attend the rulemaking meeting. There were several concerns in the original legislation and as a result it was amended in the Senate. The original bill gave a committee chair the ability to put a bill in the drawer and not hear it in a public testimony. This is concerning because many rules that stakeholders have taken quite a bit of time on addressing would be dead because of one action. The amendments would make it so a committee would have to at least hear the rule and if they did decide to reject or kill the rule they would need to provide explanation as to why they rejected the rule. The changes reflect balance in the process.

PROPERTY TAXES- This past week, Governor Little vetoed **H292** that dealt with providing property taxes to Idahoans. In his veto explanation, the governor felt that this was a hodgepodge of policy items intermingled with property tax relief. However, the biggest concern which was also felt by the legislature was the pause of TECM bonds that were scheduled for sale this week due to consternation in the bond market. Due to the veto and concern, H376 was born and whipped through the legislature in a few days to clean up several of the concerns.

H376 clarifies the sales tax distributions found in House Bill 292 and clarifies that \$80 million is distributed to the transportation expansion and congestion mitigation fund (TECM), and any moneys over \$80 million is distributed to local units of government for local highway projects. It also clarifies that these distributions take priority over certain other distributions. Having passed H376, both the House and Senate overrode the Governor's veto by a super majority of the vote.

The first year after the passage of H292 would provide up to \$355 million dollars in property tax relief. During the second and third year it is estimated that \$110 million be used to reduce property taxes for owner-occupied properties that are receiving the homestead property tax exemption. There would be approximately \$100 million to be used to reduce property taxes for all property taxpayers; and another estimated \$100 million will be distributed to school districts on an average daily attendance basis. School districts are required to use funds in the order of priority as follows: (1) payment of school bonds (2) payment of school levies (3) saved for future school facility construction needs or (4) used for new bonds. H292 would also eliminate the March date that school districts can use for elections. Circuit breaker criteria are also relaxed to

allow more people to qualify for the program. The circuit breaker is a program targeted towards those who meet the following qualifications: the property owners total 2022 income, after deducting medical expenses, was \$33,870 or less; the property owner was 65 or older, blind, widowed, disabled, a former POW or hostage, or a motherless or fatherless child under 18 years old; the property owner owned and lived in a home in Idaho that was their primary residence before April 15, 2023; and the property must have a current homeowner's exemption.

AGRICULTURE PROTECTION AREAS- The Idaho Farm Bureau Federation made a presentation in the House of Representatives and Senate Agricultural Affairs Committees related to agriculture land preservation. **H377** was introduced and printed only to serve as a spark for discussions to be held during the interim period and to bring back in 2024 a piece of legislation that could be considered by the legislature. There are two primary goals of the proposal: (1) promoting proactive planning tools for working landowners, and governing bodies to maintain and enhance the economic value of working lands, and (2) to create a new dedicated fund to incentivize Idaho working landowners to protect their farm, ranch, and forest property. The measure establishes an agriculture protection area board to oversee applications and implementation of the agriculture protection area. The board is proposed to be made up of at least three (3) and not more than five (5) members from the county's soil and water conservation district board of directors to serve as the agriculture protection area board. The concept of ag land disappearance is one that a number of legislators have voiced concerns about, especially around urban areas.

AGENCY POLICY DOCUMENTS- H174a is a simple bill that clarifies that agency policies and guidance shall not have the force and effect of law. There have been several concerns by legislators that agencies and departments have removed rules but then have placed the verbiage into policy and have treated the policy to have the force and effect of law. H174a was brought by Representative Judy Boyle and has passed both bodies and is now waiting for consideration by Governor Little.

This review is provided by Association Management Group (Waitley Associates, Batt Associates, LP Associates & Agriculture, and Rooks Associates). <https://www.amgidaho.com/>