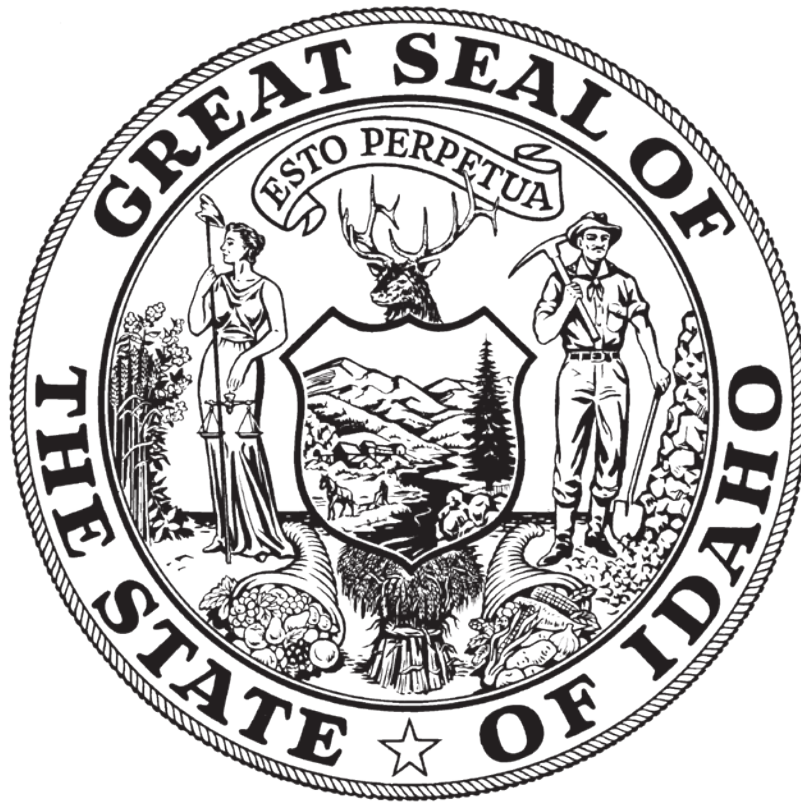


**ELECTION  
CONSOLIDATION  
DISTRICT  
LAWS**

**2019**



**Compiled under the authority of  
Secretary of State  
State of Idaho**



# Table of Contents

Auditorium District Elections	
Frequently Asked Questions.....	1
Selected Code Sections .....	3
Cemetery District Elections	
Frequently Asked Questions.....	11
Selected Code Sections .....	13
Community College Elections	
Frequently Asked Questions.....	19
Selected Code Sections .....	21
Education Elections	
Frequently Asked Questions.....	27
Selected Code Sections .....	29
Fire Protection District Elections	
Frequently Asked Questions.....	45
Selected Code Sections .....	47
Highway District Elections	
Frequently Asked Questions.....	59
Selected Code Sections .....	63
Hospital District Elections	
Frequently Asked Questions.....	81
Selected Code Sections .....	83
Library District Elections	
Frequently Asked Questions.....	93
Selected Code Sections .....	95
Mosquito Abatement District Elections	
Frequently Asked Questions.....	107
Selected Code Section .....	109
Municipal Elections	
Frequently Asked Questions.....	115
Selected Code Sections .....	117
Recreation District Elections	
Frequently Asked Questions.....	135
Selected Code Sections .....	137
Revenue & Taxation Elections	
Frequently Asked Questions.....	145
Selected Code Sections .....	147
Soil Conservation District Elections	
Frequently Asked Questions.....	149
Selected Code Sections .....	151
Water & Sewer District Elections	
Frequently Asked Questions.....	161
Selected Code Sections .....	163
Watercourses & Port District Elections	
Frequently Asked Questions.....	177
Selected Code Sections .....	179
Weather Modification District Elections	
Frequently Asked Questions.....	183
Selected Code Sections .....	185

*This page intentionally left blank.*

## **Auditorium District Elections Frequently Asked Questions**

### **When are auditorium district elections held?**

Elections of directors of auditorium districts are held in May of the first odd-number year after organization of the district, and every second year thereafter (i.e. biennially). Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (34-106, 67-4911, Idaho Code)

### **How many directors are elected in an auditorium district and what are their terms of office?**

There are five (5) directors who are members of the board of an auditorium district. Each director's term of office is for six (6) years. The terms of office are staggered.

At the initial formation election, voters in the district vote for or against the organization of the district and for five (5) qualified electors who will constitute the board of directors of the district, if organized. One (1) director to act until the first biennial election, two (2) until the second and two (2) until the third.

At the first biennial election after formation there is elected one (1) member to serve for a term of six (6) years; at the second biennial election two (2) members are elected to serve for a term of six years; at the third biennial election two (2) members are elected to serve for a term of six years. (67-4907, 67-4911, Idaho Code)

### **How do I know if I'm eligible to vote in an auditorium district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and reside in the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law.

The county clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. (34-104, 34-1402, 67-4902, Idaho Code)

### **What are the requirements if I want to run for auditorium district Director?**

A director candidate must be a registered voter of the State of Idaho and a resident of the district.

Candidates for election as an auditorium district director file nominating petitions which include the name of the candidate and signatures of at least five (5) qualified electors of the district.

The Declaration of Candidacy and the Petition of Candidacy forms are available from and are filed with the secretary of the board. However, the forms are also available from the County Clerk's Election Office. The county clerk runs the election for the district but candidacy forms are filed with the district.

The nomination petition must be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made.

After their election, members of the board must qualify to take office by filing an oath of office and a corporate surety bond (see 59-802(7), Idaho Code) at the expense of the district in an amount not to exceed \$1000 each. (34-1404, 67-4902, 67-4907, 67-4908, 67-4911, Idaho Code; see Election Consolidation Calendar for dates)

### **Who is responsible for administration of the election?**

The county clerk runs the election of an auditorium district in accordance with the provisions of Title 34, Chapter 14, Idaho Code, and provides for adequate polling places throughout the district. The county clerk also appoints election officials for the election.

The county clerk performs all the necessary duties of the election official of an auditorium district including, but not limited to, publishing the notice of the filing deadline and the notice of the election, and preparation of the election calendar. (34-1401, 67-4907, 67-4911, Idaho Code)

## **Auditorium District Elections Frequently Asked Questions**

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the secretary of the district not less than forty-five (45) days before the election. Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Election Office. *(34-1407, 67-4911, Idaho Code)*

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates is the same as the number of directors to be elected no election will be held. The secretary of the district declares the candidates to be elected and issues a certificate of election to the candidate. *(34-1407, 67-4911, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the auditorium district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can auditorium district directors be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring in the office of the auditorium director, other than by the expiration of the term of office, are filled by the remaining members of the board. Such appointment is until the next biennial election, when a new director is elected to fill the remainder of the original term of office in which the vacancy occurred. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the court having jurisdiction shall fill such vacancy. *(67-4910, Idaho Code)*

### **Are Auditorium Districts under Campaign Disclosure?**

Yes. Campaign disclosure applies to supporting or opposing the creation or dissolution of an auditorium district as well as candidates. *(67-4931, Idaho Code)*

**Auditorium District Elections  
Selected Code Sections**

67-4902	DEFINITIONS
67-4903	JURISDICTION TO ESTABLISH DISTRICTS
67-4904	PETITION — CONTENTS — AMENDMENTS
67-4905	BOND OF PETITIONERS
67-4906	NOTICE OF HEARING ON PETITION — JURISDICTION
67-4907	HEARINGS ON PETITIONS — ELECTION FOR ORGANIZATION AND OFFICERS
67-4908	QUALIFICATION OF MEMBERS OF BOARD
67-4909	ORGANIZATION OF BOARD — ACCOUNTS OF TREASURER — COMPENSATION OF MEMBERS — ANNUAL AUDIT — REMOVAL OF DIRECTORS
67-4910	MEETINGS — VACANCIES
67-4911	ELECTIONS — TERMS OF OFFICE
67-4922	SUBMISSION OF PROPOSITION TO ELECTORATE
67-4923	NOTICE OF ELECTION
67-4924	CONDUCT OF ELECTION — CANVASS OF RETURNS
67-4925	EFFECT OF ELECTION — SUBSEQUENT ELECTION
67-4926	CORRECTION OF FAULTY NOTICES
67-4928	ELECTIONS — VALIDATION OF ACTS
67-4929	INCLUSION OR EXCLUSION — ELECTION PROCEDURE
67-4930	DISSOLUTION OF DISTRICT — PROCEDURE
67-4931	[REPEALED - S.L. 2019, Ch. 288]

**67-4902. DEFINITIONS.** An auditorium or community center district is one to build, operate, maintain, market and manage for public, commercial and/or industrial purposes by any available means public auditoriums, exhibition halls, convention centers, sports arenas and facilities of a similar nature, and for that purpose any such district shall have the power to construct, maintain, manage, market and operate such facilities.

A district organized after July 1, 2001, shall consist of a single contiguous area comprising all or part of one (1) or more municipalities or counties.

The word “board” as used in this chapter shall mean the board of directors of a district.

A “qualified elector” of a district, within the meaning of and entitled to vote under this chapter, is a person who resides in the district and is otherwise qualified under section 34-104, Idaho Code.

Wherever the term “publication” is used in this chapter it means publication twice, the first time not less than twelve (12) days prior to an election, and the second time not less than five (5) days prior to an election, as provided in section 34-1406, Idaho Code. (History: S.L. 1959, Ch. 137; S.L. 1974, Ch. 139; S.L. 1978, Ch. 276; S.L. 1995, Ch. 118; S.L. 1998, Ch. 21; S.L. 2001, Ch. 258)

**67-4903. JURISDICTION TO ESTABLISH DISTRICTS.** The district court sitting in and for any county in this state, or any judge thereof in vacation, is hereby vested with jurisdiction, power and authority to establish districts which may be entirely within or partly within and partly without the judicial district in which said court is located. (History: S.L. 1959, Ch. 137)

**67-4904. PETITION — CONTENTS — AMENDMENTS.** The organization of a district shall be initiated by a petition filed in the office of the clerk of the court vested with jurisdiction, in a county in which the major part of the real property in the proposed district is situated. The petition shall be signed by not less than ten percent (10%) of the qualified electors who reside within the boundaries of the proposed district, and not less than ten (10) of whom shall reside in each election precinct which is wholly or partially within the boundaries of any such proposed district.

## **Auditorium District Elections Selected Code Sections**

The petition shall set forth:

(1) The name of the proposed district consisting of a chosen name preceding the words, "auditorium or community center district."

(2) A general description of the facilities to be constructed and any marketing programs for such facilities within and for the district.

(3) The estimated cost of the proposed facilities and any marketing programs for such facilities and the estimated annual budget for the proposed district.

(4) The maximum tax rate that the board will be authorized to levy or impose.

(5) A general description of the boundaries of the district or the territory to be included therein, with such certainty as to enable a property owner to determine whether or not his property is within the district.

(6) A prayer for the organization of the district.

No petition with the requisite signatures shall be declared null and void on account of alleged clerical errors or nonmaterial errors in the description of the territory, but the court may at any time permit the petition to be amended to conform to the facts by correcting any clerical or nonmaterial errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one (1) petition. All such petitions filed prior to the hearing on the first petition filed, shall be considered by the court the same as though filed with the first petition placed on file. (History: S.L. 1959, Ch. 137; S.L. 1963, Ch. 95; S.L. 1978, Ch. 20 & 276; S.L. 1998, Ch. 21; S.L. 2001, Ch. 258)

**67-4905. BOND OF PETITIONERS.** At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on said petition a bond shall be filed, with security approved by the court, sufficient to pay all expenses connected with the proceedings in case the organization of the district is not effected. If at any time during the proceeding the court shall be satisfied that the bond first executed is insufficient in amount, it may require the execution of an additional bond within a time to be fixed, not less than ten (10) days distant, and upon failure of the petitioner to execute the same, the petition shall be dismissed. (History: S.L. 1959, Ch. 137)

**67-4906. NOTICE OF HEARING ON PETITION — JURISDICTION.** Immediately after the filing of such petition, the court wherein such petition is filed or a judge thereof in vacation, shall by order fix a place and time, not less than twenty (20) days nor more than forty (40) days after the petition is filed, for hearing thereon and thereupon the clerk of said court shall cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon; the clerk of said court shall also forthwith cause a copy of said notice to be mailed by U.S. registered mail to the board of county commissioners of each of the several counties and to the governing body of each municipality having territory within the proposed district.

The district court in and for the county in which the petition for the organization of district has been filed, shall thereafter for all purposes of this act, except as hereinafter otherwise provided, maintain and have original and exclusive jurisdiction, coextensive with the boundaries of the district, and of the real property proposed to be included in said district or affected by said district without regard to the usual limits of its jurisdiction.

No judge of such court wherein such petition is filed shall be disqualified to perform any duty imposed by this act by reason of ownership of property within any proposed district. (History: S.L. 1959, Ch. 137)

**67-4907. HEARINGS ON PETITIONS — ELECTION FOR ORGANIZATION AND OFFICERS.** On the day fixed for such hearing or at an adjournment thereof the court shall, if the petition proposes a property tax, ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district, who pay a general tax on real property



## **Auditorium District Elections Selected Code Sections**

owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the district court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited directly or indirectly by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this chapter, and that the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the qualified electors of the district at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, and such order shall direct the county clerk to appoint election officials of the election. The county clerk of the county having jurisdiction shall give published notice of the time and place of an election to be held in the district.

Such election shall be held and conducted in accordance with the provisions of title 34, Idaho Code.

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or names of the nominee or nominees, signed by at least five (5) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the election of the directors, provided that all matters may be contained upon one (1) ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five (5) qualified electors, who shall constitute the board of directors of the district, if organized, one (1) director to act until the first biennial election, two (2) until the second, and two (2) until the third biennial election.

The county board of canvassers shall certify the returns of the election to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designated the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation except that districts formed prior to January 1, 1987, or districts with twenty-five thousand (25,000) or more population shall have no power to levy and collect property taxes.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree

## **Auditorium District Elections Selected Code Sections**

declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized. (History: S.L. 1959, Ch. 137; S.L. 1987, Ch. 70; S.L. 1995, Ch. 118; S.L. 1998, Ch. 21; S.L. 2001, Ch. 258; S.L. 2009, Ch. 341)

**67-4908. QUALIFICATION OF MEMBERS OF BOARD.** Whenever a district has been declared duly organized, the members of the board shall qualify by filing with the clerk of court their oaths of office, and corporate surety bonds at the expense of the district in an amount not to exceed \$1,000 each, the form thereof to be fixed and approved by the court, conditioned for the faithful performance of their duties as directors. (History: S.L. 1959, Ch. 137)

**67-4909. ORGANIZATION OF BOARD — ACCOUNTS OF TREASURER — COMPENSATION OF MEMBERS — ANNUAL AUDIT — REMOVAL OF DIRECTORS.** After taking oath and filing bonds, the board shall choose one (1) of its members as chairman of the board and president of the district, and shall elect a secretary and a treasurer of the board and of the district, who may or may not be members of the board. The secretary and the treasurer may be one (1) person. Such board shall adopt a seal and the secretary shall keep, in a well-bound book, a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection to all interested parties.

The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the district, in permanent records. He shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount not less than five thousand dollars (\$5,000), conditioned on the faithful performance of the duties of his office.

Each member of the board shall receive as compensation for his service a sum not in excess of sixty dollars (\$60.00) per annum. No member of the board shall receive any compensation as an employee of the district or otherwise, other than that herein provided and no member of the board shall be interested in any contract or transaction with the district except in his official representative capacity.

It shall be the duty of the board of directors to cause an audit to be made of all financial affairs of the district during each year ending November 30th as required in section 67-450B, Idaho Code.

The court having jurisdiction of the district shall have the power to remove directors for cause shown, on petition, notice and hearing. (History: S.L. 1959, Ch.137; S.L. 1987, Ch. 70; S.L. 1992, Ch. 15; S.L. 1993, Ch. 387)

**67-4910. MEETINGS — VACANCIES.** The board shall meet regularly once each month at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the district require, on notice to each member of the board. Three (3) members of the board shall constitute a quorum at any meeting. Any vacancy on the board shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election when the vacancy shall be filled by election. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the court having jurisdiction shall fill such vacancy. (History: S.L. 1959, Ch.137)

**67-4911. ELECTIONS — TERMS OF OFFICE.** On an election date as provided for in section 34-106(1), Idaho Code, in May of the first odd-numbered year after the organization of any district, and every second year thereafter, an election shall be held, which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized, and each sixth year thereafter, there shall be elected by the qualified electors of the district, one (1) member of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years, and at the third biennial election, and each

## **Auditorium District Elections Selected Code Sections**

sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years. Provided, a member of the board once in office shall serve until his successor is elected, qualified and takes office.

Not later than 5:00 p.m. on the ninth Friday before any such election, nominations may be filed with the secretary of the board. The county clerk shall provide for holding such election and shall appoint judges to conduct it. The county clerk shall give notice of election by publication, and shall arrange such other details in connection therewith. Adequate polling places shall be provided throughout the district boundaries for all elections. The returns of the election shall be certified to and shall be canvassed and declared by the board of county commissioners which shall report the results to the district. The candidate or candidates, according to the number of directors to be elected, receiving the most votes, shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board shall declare such candidates elected as directors, and the secretary of the board shall immediately make and deliver to such persons certificates of election signed by him and bearing the seal of the district. (History: S.L. 1959, Ch. 137; S.L. 1974, Ch. 139; S.L. 1995, Ch. 118; S.L. 1998, Ch. 21; S.L. 2001, Ch. 258; S.L. 2009, Ch. 341; S.L. 2011, Ch. 11)

**67-4922. SUBMISSION OF PROPOSITION TO ELECTORATE.** Whenever any board authorized to levy and collect property taxes shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, public or private, municipalities, or governmental subdivisions, to carry out the objects or purposes of said district, requiring the creation of an indebtedness of seventy-five thousand dollars (\$75,000) or more, and in any event when the indebtedness will exceed the income and revenue provided for the year, said board shall order the submission of the proposition of issuing such obligations or bonds, or creating other indebtedness to the qualified electors of the district at an election held for that purpose. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolution shall also fix the date upon which such election shall be held, subject to the provisions of section 34-106, Idaho Code, and the manner of holding the same in accordance with the provisions of title 34, Idaho Code, and the method of voting for or against the incurring of the proposed indebtedness. Such resolution shall direct the county clerk to designate the polling place or places, and appoint judges of each polling place. (History: S.L. 1959, Ch. 137; S.L. 1974, Ch. 139; S.L. 1987, Ch. 70; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**67-4923. NOTICE OF ELECTION.** The board of a district authorized to levy and collect property taxes shall prescribe the form of the notice of election, and direct the publication of the same, the first publication of said notice to be as prescribed in chapter 14, title 34, Idaho Code. (History: S.L. 1959, Ch. 137; S.L. 1987, Ch.70; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**67-4924. CONDUCT OF ELECTION — CANVASS OF RETURNS.** The county clerk shall conduct the election in the manner prescribed by the provisions of chapter 14, title 34, Idaho Code, and the returns thereof shall be canvassed and the results certified by the county clerk who shall report the results to the district. (History: S.L. 1959, Ch. 137; S.L. 1987, Ch. 118; S.L. 2009, Ch. 341)

## **Auditorium District Elections Selected Code Sections**

**67-4925. EFFECT OF ELECTION — SUBSEQUENT ELECTION.** In the event that it shall appear from said returns that the necessary percentage (as now specified by the constitution of the state of Idaho or as the same may hereafter be amended) of said qualified electors of the district authorized to levy and collect ad valorem taxes who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract, or issue and sell such bonds of the district, as the case may be, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder and in the resolution therefor, and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in such resolution. Submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose. (History: S.L. 1959, Ch. 137; S.L. 1978, Ch. 276; S.L. 1987, Ch. 70)

**67-4926. CORRECTION OF FAULTY NOTICES.** In any and every case where a notice is provided for in this act, if the court finds for any reason that due notice was not given, the court shall not thereby lose jurisdiction, and the proceeding in question shall not thereby be void or be abated, but the court shall in that case order due notice to be given and shall continue the hearing until such time as notice shall be properly given, and thereupon shall proceed as though notice has [had] been properly given in the first instance. (History: S.L. 1959, Ch. 137)

**67-4928. ELECTIONS — VALIDATION OF ACTS.** Whenever any auditorium district organized under the provisions of chapter 49, title 67, Idaho Code, shall have failed to hold any election provided for in section 67-4911, Idaho Code, for the election of a member or members of the board of directors, the board of directors of said district may order an election to be held, subject to the provisions of section 34-106, Idaho Code, in said district for such purpose at such time as may be fixed by resolution of the board.

Whenever any auditorium district has been heretofore created pursuant to the provisions of chapter 49, title 67, Idaho Code, all proceedings had in connection with the creation of such district and the organization of the governing body and all acts and proceedings heretofore taken by such district or its governing body are hereby validated, ratified and declared to be binding and effective in accordance with their terms, notwithstanding any failure to have held and conducted any election of members of the board of directors of said district. (History: S.L. 1974, Ch. 139; S.L. 1995, Ch. 118)

**67-4929. INCLUSION OR EXCLUSION — ELECTION PROCEDURE.** Whenever under the provisions of sections 67-4918 and 67-4919, Idaho Code, owners or owners in fee of any real property have petitioned for inclusion or exclusion of property within the district, and the petition has been denied, the petitioners shall be entitled to an election as provided in this section:

(a) A petition may be filed with the county commissioners and shall be signed by not less than eighty percent (80%) of the qualified electors resident within the boundaries of the area proposed to be included or excluded.

(b) Within thirty (30) days after the filing of such petition, the county commissioners shall determine whether or not the same substantially complies with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to that effect specifying the particular deficiencies and dismissing the petition. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to the effect that the question of the inclusion or exclusion of property within the district be placed on the ballot at the next county general election.

(c) If the county commissioners order a question to be placed on the ballot as provided in this section, such election shall be conducted and notice thereof given by the county clerk in accordance with the

## **Auditorium District Elections Selected Code Sections**

provisions of title 34, Idaho Code.

(d) Immediately after such election, the county commissioners shall canvass the vote as provided in chapter 12, title 34, Idaho Code. If one-half (1/2) or more of the votes cast at such election within the district are in favor of allowing the inclusion or exclusion, the county commissioners shall enter an order so finding and declaring that the boundaries of such district are revised as provided by the election. The county commissioners shall cause one (1) certified copy of such order to be filed in the office of the county recorder of such county. Immediately upon the entry of such order, the change in boundaries so ordered shall be complete.

(e) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the inclusion or exclusion of such property after six (6) months has expired from the date of entering the order declaring the change in boundaries of such district.

(f) The provisions of section 67-4920, Idaho Code, relating to liability for indebtedness of included or excluded property of a district authorized to levy and collect property taxes shall apply to property included or excluded as provided in this section. (History: S.L. 1975, Ch. 154; S.L. 1987, Ch. 70; S.L. 2009, Ch. 341)

**67-4930. DISSOLUTION OF DISTRICT — PROCEDURE.** An auditorium district may be dissolved as follows:

(a) Any person or persons may file a petition for the dissolution of an auditorium district with the clerk. Such petition which may be in one (1) or more papers, shall state the name of the district and shall be signed by not less than three thousand (3,000) qualified electors resident within the boundaries of the district.

(b) Within thirty (30) days after the filing of such petition, the county commissioners shall determine whether or not the same substantially complies with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to that effect specifying the particular deficiencies and dismissing the petition. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to that effect and calling an election upon the dissolution of such district to be held at the same time as the next county general election, as provided in this section.

(c) If the county commissioners order an election as provided in this section, such election shall be conducted and notice thereof given by the county clerk in accordance with the provisions of title 34, Idaho Code.

(d) Immediately after such election, the county commissioners shall canvass the vote as provided in chapter 12, title 34, Idaho Code. If one-half (1/2) or more of the votes cast at such election are against the dissolution of such district, the county commissioners shall enter an order so finding and declaring that such district shall not be dissolved. If more than one-half (1/2) of the votes cast at such election are in favor of dissolving such district, the county commissioners shall enter an order so finding and declaring such district duly dissolved. The county commissioners shall cause one (1) certified copy of such order to be filed in the office of the county recorder of such county. Immediately upon the entry of such order, the dissolution of such district shall be complete.

(e) Upon such dissolution being complete, title to all property of the dissolved district shall vest in the county where such property is situated. The county commissioners shall then: sell and dispose thereof in the manner provided by law for the sale or disposition of county property; apply the proceeds thereof to pay any lawful claims against the dissolved district, if any; and apply the balance remaining, if any, to any public purpose within the county.

(f) When the boundaries of the district lie in two (2) or more counties, the county commissioners of each county shall act separately in the election and dissolution of that part of the district contained in their county

***Auditorium District Elections***  
***Selected Code Sections***

but the county commissioners of each such county shall meet together before calling such election and provide for uniform proceedings in each county. If there is any balance remaining after sale and disposition of the property of such dissolved district, it shall be prorated among such counties in proportion to each county's share of the total assessed valuation of such dissolved district for the preceding calendar year.

(g) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the dissolution of such district after six (6) months has expired from the date of entering the order declaring the dissolution of such district. (History: S.L. 1975, Ch. 154; S.L. 2009, Ch. 341)

**67-4931. [REPEALED - S.L. 2019, Ch. 288].**

## **Cemetery District Elections Frequently Asked Questions**

### **When are cemetery district elections held?**

Elections of commissioners of cemetery maintenance districts are held the first Tuesday following the first Monday in November and every odd-numbered year thereafter. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (27-111, 34-106, Idaho Code)

### **How many commissioners are elected in a cemetery maintenance district and what are their terms of office?**

Each cemetery district is divided into three (3) subdivisions, as nearly equal in population, area and mileage as practicable to be known as subdistricts 1, 2 and 3. A commissioner is elected from each subdistrict. Of the commissioners comprising the board at any one time, not more than one can be an elector of the same subdistrict. Each commissioner is elected on a district wide basis and serves a term of four (4) years. The terms of office are staggered. For commissioners whose office expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. (27-110, 27-111, Idaho Code)

### **How do I know if I'm eligible to vote in a cemetery maintenance district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law.

The county clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. (27-107, 27-111, 34-104, 34-1402, Idaho Code)

### **What are the requirements if I want to run for cemetery district commissioner?**

A commissioner candidate must be an elector of the subdistrict which he represents at the time of his declaration of candidacy and during his term of office.

Candidates for election as a cemetery maintenance district commissioner file nominating petitions which include the name of the candidate, the subdistrict that the candidate is running in and signatures of at least five (5) electors from the subdistrict.

The Declaration of Candidacy and the Petition of Candidacy forms are available from and filed with the clerk of the cemetery district. However, the forms are also available from the county clerk's election department.

The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. (27-111, 34-1404, Idaho Code; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

The county clerk administers cemetery maintenance district elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code. The county clerk selects polling places, election judges and clerks.

The county clerk performs all the necessary duties of the election official of a cemetery maintenance district including, but not limited to, publishing the notice of the filing deadline and the notice of the election, and preparation of the election calendar. (27-111, 34-1401, Idaho Code)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the clerk of the district not less than forty-five (45)

## ***Cemetery District Elections Frequently Asked Questions***

days before the election. The Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Election Office. *(34-1407, Idaho Code)*

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for each position to be filled, no election will be held. The board of commissioners will declare the candidate elected and the secretary of the district issues a certificate of election to the candidate. *(27-111, 34-1407, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the cemetery maintenance district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can cemetery maintenance district commissioners be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring in the office of the cemetery maintenance commissioner, other than by the expiration of the term of office, is filled by the cemetery maintenance board. *(27-110, Idaho Code)*



**Cemetery District Elections**  
**Selected Code Sections**

27-102	CREATION AND ORGANIZATION OF DISTRICT
27-103	JOINT COUNTY CEMETERY MAINTENANCE DISTRICTS — COMMISSIONERS
27-104	PETITION
27-105	NOTICE OF HEARING OF PROTEST
27-106	NOTICE OF ELECTION
27-107	ELECTION — QUALIFICATION OF ELECTORS — CANVASS
27-108	CANVASS BY BOARD OF COMMISSIONERS — VALIDITY OF ORGANIZATION
27-109	CEMETERY MAINTENANCE BOARD — APPOINTMENT OF COMMISSIONERS — OATH
27-110	TERM OF OFFICE — VACANCIES
27-111	ELECTION OF COMMISSIONERS
27-112	ANNEXATION OR EXCLUSION OF TERRITORY FROM DISTRICT — PROCEDURE
27-113	ANNEXATION OF TERRITORY IN ADJOINING COUNTY

**27-102. CREATION AND ORGANIZATION OF DISTRICT.** Whenever fifteen (15) or more of the holders of title, or evidence of title, to lands aggregating not less than six thousand (6,000) acres of contiguous territory, or consisting of contiguous territory of less extent but having market value for assessment purposes of at least one million dollars (\$1,000,000) at the last preceding county assessment, desire to provide for the organization of the same as a cemetery maintenance district, none of their said lands being included within the boundaries of an already created and organized cemetery maintenance district under the terms of this act, such district may be created and organized as hereinafter provided. (History: S.L. 1927, Ch. 197; S.L. 1929, Ch. 268; S.L. 1980, Ch. 350)

**27-103. JOINT COUNTY CEMETERY MAINTENANCE DISTRICTS — COMMISSIONERS.** When the boundaries of a proposed cemetery maintenance district lie in two (2) or more counties, each county shall act separately in the election and organization of that part of the proposed cemetery maintenance district contained in its county: Provided that the boards of county commissioners of each county so joining, shall meet together upon the presentation of the petition to their respective bodies, asking for such proposed district, and provide for uniform proceedings in each county. When two (2) counties join in a cemetery maintenance district, the county having the larger population within the district (,) shall appoint two (2) of the three (3) cemetery maintenance commissioners and the county having the smaller population within the district, one (1) commissioner. When three (3) counties join in such district, each county shall appoint one (1) commissioner; when more than three (3) counties join in such district, the three (3) counties having the largest population shall each appoint one (1) commissioner. (History: S.L. 1945, Ch. 200)

**27-104. PETITION.** A petition shall first be presented to the board of county commissioners and filed with the clerk of the board of commissioners of the county in which the proposed cemetery maintenance district is situated, signed by the number of holders of title, or evidence of title specified in section 27-102, which petition shall plainly and clearly designate the boundaries of the proposed cemetery maintenance district and shall state the name of the proposed district, and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith shall, at all proper hours, be open to public inspection in the office of said clerk of the board of commissioners between the date of their said filing and the date of the election. The petition may be in one (1) paper or in several papers. (History: S.L. 1927, Ch. 197; S.L. 1929, Ch. 268)

**27-105. NOTICE OF HEARING OF PROTEST.** When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition, which time shall not be less than four (4) nor more than six (6) weeks, from the date of the presentation and filing of such petition. A notice of the time of such hearing shall be

## **Cemetery District Elections Selected Code Sections**

published by said board, once each week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within the county in which said district is situated. Said notice shall state that a cemetery maintenance district is proposed to be organized, giving the proposed boundaries thereof, and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any objection to the organization of such district, the proposed boundaries thereof or the including or excluding of any real property therein or therefrom. After hearing and considering any and all objections, if any such be interposed, the county commissioners shall thereupon make an order thereon either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided by this act, and a map showing the boundaries of such proposed district as finally fixed and determined by the board of county commissioners shall be prepared and filed in the office of the clerk of said board. (History: S.L. 1927, Ch. 197; S.L. 1929, Ch. 268)

**27-106. NOTICE OF ELECTION.** After the county commissioners have made their order finally fixing and determining the boundaries of the proposed district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed cemetery maintenance district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed cemetery maintenance district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published first not less than twelve (12) days prior to the election and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words “.... cemetery maintenance district, yes,” or “.... cemetery maintenance district, no” or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district for thirty (30) days or more next preceding the election. (History: S.L. 1927, Ch. 197; S.L. 1982, Ch. 254; S.L. 1995, Ch. 118)

**27-107. ELECTION — QUALIFICATION OF ELECTORS — CANVASS.** Such election shall be conducted in accordance with chapter 12 and chapter 14, title 34, Idaho Code. The board of county commissioners shall establish as many election precincts within such proposed cemetery maintenance district as may be necessary, and define the boundaries thereof. The county clerk shall appoint judges of election who shall perform the duties as judges of election under the provisions of title 34, Idaho Code; and the result of such election shall be certified, and canvassed and declared by the board of county commissioners. (History: S.L. 1927, Ch. 197; S.L. 1982, Ch. 254; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**27-108. CANVASS BY BOARD OF COMMISSIONERS — VALIDITY OF ORGANIZATION.** Immediately after any election for voting upon the organization of a cemetery maintenance district, the judges of said election shall forward the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall meet within ten (10) days after said returns are received and shall proceed to canvass the votes cast at such election, and if, upon canvass, it shall appear that one[-]half (1/2) or more of said votes are “.... cemetery maintenance district, no,” then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void. If, however, it shall appear upon such canvass, that more than one[-]half (1/2) of the votes cast are “.... cemetery maintenance district, yes,” the board shall, by order entered on its minutes,

## **Cemetery District Elections Selected Code Sections**

declare such territory duly organized as a cemetery maintenance district under the name designated in the petition. After the election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of such organization after six (6) months from and after the making and entering of the order provided for in this section. Such board shall cause one (1) copy of such order, duly certified, to be filed for record in the office of the county recorder of the county in which said district is situated and shall transmit to the governor one (1) certified copy thereof.

From and after the date of such filing of said order of the board of county commissioners declaring such territory duly organized as a cemetery maintenance district, the organization of such district shall be complete. (History: S.L. 1927, Ch. 197)

### **27-109. CEMETERY MAINTENANCE BOARD — APPOINTMENT OF COMMISSIONERS — OATH.**

There shall be three (3) cemetery maintenance commissioners in each district, who shall constitute the cemetery maintenance board. The first cemetery maintenance commissioners of such cemetery maintenance district shall be appointed by the board of county commissioners. If the district is to be situated in two (2) or more counties, the boards of county commissioners for those counties shall coordinate a joint public meeting whereby the appointment shall be made by a majority of all county commissioners present at the joint public meeting. If the county commissioners cannot agree on the appointment of a commissioner, all the interested persons who received the highest and equal number of votes shall have their names placed in a container. The county commissioner with the most continuous length of service shall draw one (1) name from the container. The person whose name is drawn shall then be appointed to fill the vacancy. The certificate of such appointment shall be made in triplicate: one (1) certificate shall be filed in the office of the county recorder of the county, one (1) with the clerk of the board of county commissioners, and one (1) with the assessor and tax collector of the county. Every cemetery maintenance commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the board of cemetery maintenance commissioners. (History: S.L. 1927, Ch. 197; S.L. 2017, Ch. 128)

**27-110. TERM OF OFFICE — VACANCIES.** (1) At the meeting of the board of county commissioners at which the cemetery maintenance district is declared organized, as provided by section 27-108, Idaho Code, said board of county commissioners shall divide the cemetery maintenance district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as cemetery maintenance commissioners subdistricts one, two and three. Not more than one (1) of said commissioners shall be an elector of the same cemetery maintenance subdistrict. The first commissioners appointed by the board of county commissioners shall serve until the next cemetery maintenance district election, at which their successors shall be elected. Any vacancy occurring in the office of the cemetery maintenance commissioner, other than by the expiration of the term of office, shall be filled by the cemetery maintenance board. (2) A cemetery maintenance district created from the consolidation of two (2) or more cemetery maintenance districts as provided in section 27-129, Idaho Code, may operate with five (5) cemetery maintenance commissioners subdistricts. (History: S.L. 1927, Ch. 197; S.L. 2017, Ch. 128; S.L. 2018, Ch. 196)

**27-111. ELECTION OF COMMISSIONERS.** (1) On the first Tuesday following the first Monday in November and every odd-numbered year thereafter, three (3) cemetery maintenance district commissioners shall be elected by the electors of each cemetery district as defined in section 27-104, Idaho Code. For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. The county clerk shall conduct the election in a manner consistent with statutory provisions of chapter 14, title 34, Idaho Code.

(2) For cemetery maintenance districts consisting of less than one hundred fifty (150) registered electors,

## **Cemetery District Elections Selected Code Sections**

the cemetery maintenance district commissioners may be elected at large. For all other districts, of the commissioners comprising the board at any one time, not more than one (1) shall be an elector of the same cemetery maintenance commissioners subdistrict. A commissioner shall be an elector of the subdistrict which he represents at the time of his declaration of candidacy and during his term of office. A qualified elector of the cemetery maintenance district shall be eligible to vote for each of the cemetery maintenance district commissioners. At the first election following the formation of a cemetery maintenance district, commissioners from cemetery maintenance subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery maintenance subdistrict three (3) shall be elected for a term of two (2) years; thereafter the term of office of all commissioners shall be four (4) years. All elections held under this law, shall be held in conformity with the general laws of the state, including chapter 14, title 34, Idaho Code.

(3) In any election for cemetery maintenance district commissioners, if, after the expiration of the date for filing a declaration of intent as a write-in candidate for the office of commissioner, it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary to hold an election, and the board of commissioners shall declare such candidate elected as commissioner, and the secretary shall immediately make and deliver to such person a certificate of election signed by him bearing the seal of the district. The procedure set forth in this subsection shall not apply to any other cemetery maintenance district election.

(4) A cemetery maintenance district created from the consolidation of two (2) or more cemetery maintenance districts as provided in section 27-129, Idaho Code, may operate with five (5) cemetery maintenance commissioners. (History: S.L. 1927, Ch. 197; S.L. 1967, Ch. 14; S.L. 1982, Ch. 250; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341; S.L. 2018, Ch. 196)

**27-112. ANNEXATION OR EXCLUSION OF TERRITORY FROM DISTRICT — PROCEDURE.** After the organization of a cemetery maintenance district, additional territory adjoining such district, and lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district, by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken at an election held as provided in sections 27-106 and 34-106, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the cemetery maintenance board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as in this law provided in sections 27-102 and 27-104--27-107, Idaho Code, inclusive: A petition signed by a majority of the owners of lands lying within the boundaries of the area proposed to be annexed such lands lying within the boundaries of any cemetery maintenance district heretofore created requesting the withdrawal and exclusion of lands described in said petition from such district and setting forth that the people residing upon said lands are not served by the cemetery or cemeteries within the boundaries of said district, that said people are served by other cemeteries within the county, and that the exclusion and withdrawal of said lands from said district will not reduce the market value for assessment purposes of the lands remaining in said district below five million dollars (\$5,000,000), may be presented and filed with the board of county commissioners of the county within which said district is located. Upon the presentation and filing of such petition said board of county commissioners shall immediately fix a time and place for a hearing on said petition when and where any elector of said district may appear and be heard in support of or opposition to said petition. Notice of said hearing shall be given by said board by publication in one (1) issue of a newspaper of general circulation in said cemetery district at least ten (10) days prior to the date of said hearing and a copy of said notice shall be served by registered mail or personally on the president and secretary of the cemetery district commissioners. If after a hearing on said petition the board of county commissioners determines that the

## **Cemetery District Elections Selected Code Sections**

people residing upon the land sought to be withdrawn from such cemetery district are not served by the cemetery or cemeteries within such district, that said people are served by other cemeteries within the county, and that the exclusion and withdrawal of said lands from said district will not reduce the market value for assessment purposes of the lands remaining therein below five million dollars (\$5,000,000), said commissioners shall make and enter such findings in the minutes of their meeting and make and enter an order authorizing and directing the withdrawal and exclusion of said lands from said cemetery district. Provided that the land so ordered to be withdrawn and excluded from said cemetery district be either annexed to an adjoining cemetery district which does serve said petitioners, or, if not served by an adjoining cemetery district, that said lands be included in the formation of a new cemetery district which does serve said petitioners.

A copy of such findings and order shall be served upon the president and secretary of the cemetery district commissioners, and county assessor, personally, or by registered mail. If the entry of such findings and order be made prior to the 4th Monday of June the lands annexed shall be excluded and withdrawn from the said cemetery district of which they were formerly a part and shall not be subject to assessment made and levied by said former district for the current fiscal year or subsequent years; provided, however, that such lands shall be subject to assessment made and levied for the current fiscal year and subsequent years by the new cemetery district of which they are made a part. If the entry of such findings and order be made subsequent to the 4th Monday of June the lands annexed shall be subject to assessment made and levied by the cemetery district of which they were formerly a part for the current fiscal year but shall thereafter be subject to assessment made and levied by the new cemetery district of which they are made a part. If said county commissioners do not find such facts they shall make and enter findings as to the facts which may exist and deny such petition. The costs in connection with giving the notices herein required shall be paid by petitioners. (History: S.L.1927, Ch. 197; S.L. 1947, Ch. 115; S.L. 1957, Ch. 51; S.L. 1959, Ch. 69; S.L. 1963, Ch. 337; S.L. 1980, Ch. 350; S.L.1995, Ch. 118)

**27-113. ANNEXATION OF TERRITORY IN ADJOINING COUNTY.** After the organization of a cemetery maintenance district, additional territory adjoining such district and contiguous thereto, and located wholly within an adjoining county, may be added to such district and become a part thereof as hereinafter provided. The proceedings for such annexation shall be the same as the proceedings for the creation and organization of a cemetery maintenance district with the following exceptions and modifications:

a. Such proceeding may be initiated by ten (10) or more of the holders of title or evidence of title to contiguous lands aggregating not less than two thousand (2000) acres, or of less area but having a market value for assessment purposes of at least five hundred thousand dollars (\$500,000).

b. A petition, such as is required by section 27-104, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of such territory, and also name and describe the cemetery maintenance district to which annexation is sought, and shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. Such petition must be accompanied by a certified copy of a resolution of the board of cemetery maintenance commissioners of the original district consenting to such annexation.

c. The notice of hearing on such petition shall state that certain territory therein described is proposed to be annexed to a cemetery maintenance district therein named and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections thereto at the time and place therein specified. The order entered by the local board of county commissioners on such petition shall, if such petition be granted, fix the boundaries of such annexed territory and direct that a map thereof be prepared under the direction of the clerk of the board, and certified copies of such order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original cemetery maintenance district is situated.

## ***Cemetery District Elections Selected Code Sections***

d. An election shall be held in the territory proposed to be annexed for the purpose of voting upon such annexation and the notice thereof shall accurately describe the boundaries of the territory proposed to be annexed, and shall state the name of the district to which annexation is sought, and that a map showing the boundaries of such district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. Such notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Cemetery Maintenance District" and "Against annexation to .... Cemetery Maintenance District," and shall direct that the voter indicate his choice thereon by a cross (X).

e. The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Cemetery Maintenance District." The returns of such election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from such canvass that more than one-half (1/2) of said voters are in favor of such annexation, such board shall, by order entered on its minutes, declare such territory a part of the cemetery maintenance district to which annexation is sought, and a certified copy of such order shall be transmitted to the cemetery maintenance board of the original district, and also to the board of the county commissioners of the county in which such original district is situated. A certified copy of such order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. Prior to the next district election following such annexation the cemetery maintenance board shall divide the district into two (2) subdistricts each of which shall comprise all territory of the district situated within the boundaries of one (1) county, and thereafter the commissioners of such district shall be elected at large; provided, that not more than two (2) members of the cemetery maintenance board shall be residents of the same county; and provided, further, that the commissioner whose term of office first expires after such annexation shall be elected by the voters of the entire district from among the qualified electors of such annexed territory. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to such levy. (History: S.L. 1927, Ch. 197; S.L. 1929, Ch. 268; S.L. 1980, Ch. 350)

## **Community College District Elections Frequently Asked Questions**

### **When are community college commissioner elections held?**

Elections of trustees of community college districts are held biennially in November of even-numbered years. Bond, levy and other ballot question elections are held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (33-2106 (2), 34-106, Idaho Code)

### **How many commissioners are elected in a community college district and what are their terms of office?**

The board of trustees of each community college district consists of five (5) electors who shall reside in a different trustee zone from each other. At the first election of trustees after the creation of a district, five (5) trustees are elected: two (2) for terms of two (2) years each, and three (3) for terms of four (4) years each. Thereafter, the successors are elected for terms of four (4) years. (33-2106, Idaho Code)

### **How do I know if I'm eligible to vote in a community college district election?**

*There are only 3 community college districts in the state (one in Kootenai County, one in Twin Falls and Jerome counties, and one in Ada and Canyon counties).*

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The County Clerk's Election Office or the secretary of the district can tell you if you are eligible to vote in district elections. (33-405, 34-104, 34-1402, Idaho Code)

### **What are the requirements if I want to run for community college district commissioner?**

Each candidate must, at the time of his nomination and election, or appointment, reside in a different trustee zone from each other. Candidates for election as a community college trustee file nominating petitions which include the name of the candidate and signatures of at least five (5) electors of the district.

The Declaration of Candidacy and the Petition of Candidacy forms are available from and filed with the clerk of the district. However, the forms are also available from the County Clerk's Election Office. (33-2106, 34-1404, Idaho Code; see *Election Consolidation Calendar* for dates)

### **Who is responsible for administration of the election?**

The County Clerk is responsible for administering the election as prescribed in Chapter 14, Title 34, Idaho Code. The County Clerk performs all necessary duties of the election official of a community college district including, but not limited to, publishing the notice of the filing deadline and the notice of election, and preparation of the election calendar. (33-2106, 34-1401, Idaho Code)

### **What if only one candidate files?**

The election proceeds even if only one candidate files for each office. There is no provision in the statutes governing community colleges that allow the election to be cancelled if only one candidate files. (34-1407, Idaho Code)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. The declaration of intent must be filed with the clerk of the district not less than forty-five (45) days before the election. The Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Election Office. (34-1407, Idaho Code)

## **Community College District Elections Frequently Asked Questions**

### **Is absentee voting allowed?**

Yes, any registered elector of the community college district may vote by absentee ballot. Absentee ballots must be requested in writing from the County Clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. (34-1002, 34-1408, Idaho Code)

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the County Clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. (34-1409, Idaho Code)

### **Can community college commissioners be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. (34-1701, Idaho Code)

### **How are vacancies filled?**

Vacancies on the board of trustees are filled by appointment by the remaining members. Any person appointed must reside in the trustee zone where the vacancy occurs.

If (by reason of vacancies) there remain on the board less than a majority of the required number of members, appointment to fill such vacancies will be made by the state board of education.

An appointed trustee serves until the next trustee election, at which time his successor is elected for the unexpired term. (33-2106, Idaho Code)

### **Do campaign finance disclosure laws apply to community college elections?**

Campaign finance disclosure laws do apply to all community college trustee elections. In applying the law, the County Clerk stands in the place of the Secretary of State and the County Prosecuting Attorney stands in the place of the Attorney General. Reports are to be filed with the County Clerk where the candidate resides. (33-2106, Idaho Code)



## **Community College District Elections Selected Code Sections**

- 33-405 QUALIFICATIONS OF SCHOOL ELECTORS
- 33-2103 MINIMUM REQUIREMENTS FOR THE FORMATION OF A JUNIOR [COMMUNITY] COLLEGE DISTRICT
- 33-2104 FORMATION OF COMMUNITY COLLEGE DISTRICTS
- 33-2105 ADDITION OF TERRITORY TO COMMUNITY COLLEGE DISTRICTS
- 33-2106 TRUSTEES OF COMMUNITY COLLEGE DISTRICTS
- 33-2107 GENERAL POWERS OF THE BOARD OF TRUSTEES

**33-405. QUALIFICATIONS OF SCHOOL ELECTORS.** Any person voting, or offering to vote, in any school election must be, at the time of the election eighteen (18) years of age and a United States citizen who has resided in this state and in the school district at least thirty (30) days next preceding the election in which the elector desires to vote. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for school district trustees for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote.

Registration requirements set forth in chapter 4, title 34, Idaho Code, shall be applicable to school elections. The elector may be required to furnish to the election official proof of residence, which proof shall be established by either an Idaho motor vehicle driver's license or any other document definitely establishing the elector's residence within the school district or trustee zone. (History: S.L. 1963, Ch. 13; S.L. 1969, Ch. 177; S.L. 1970, Ch. 136; S.L. 1971, Ch. 25; S.L. 1982, Ch. 60; S.L. 1985, Ch. 257; S.L. 1987, Ch. 256; S.L. 1989, Ch. 88; S.L. 2009, Ch. 341)

**33-2103. MINIMUM REQUIREMENTS FOR THE FORMATION OF A JUNIOR COLLEGE DISTRICT.** A junior college district shall include (a) the area, or any part thereof, of four (4) or more school districts and the area or any part thereof, of one (1) or more counties having an aggregate enrollment in grades nine (9) through twelve (12) during the school year, next preceding the organization of such district, of not less than two thousand (2000) students, and (b) property having market value for assessment purposes as shown by the equalized assessment rolls of real and personal property for the preceding calendar year of not less than one hundred million dollars (\$100,000,000).

The state board of education in considering a petition filed pursuant to section 33-2104, Idaho Code, shall verify all the above requirements, as well as determine the number of the students expected to attend and the facilities available, or to be made available, for operation of the school. (History: S.L. 1963, Ch. 363; S.L. 1965, Ch. 238; S.L. 1980, Ch. 350)

**33-2104. FORMATION OF COMMUNITY COLLEGE DISTRICTS.** A community college district may be organized by the vote of the school district electors of the proposed district, voting at an election called and held as herein provided:

a. A petition or petitions, signed by not less than one thousand (1,000) qualified electors as defined in section 34-104, Idaho Code, residing in the proposed community college district, giving the name of the proposed community college, describing the boundaries of the proposed district and praying for the organization of the territory therein described as a community college district, together with a true copy thereof, shall be filed with the clerk of the board of county commissioners of the county in which such proposed district is to be located;

b. Said petition or petitions shall be presented to the clerk of the board of county commissioners. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk as provided in section 34-1807, Idaho Code;

c. In the event the petition is found by the county clerk to contain the required number of signatures, the clerk shall file the original in his office, and forthwith mail the copy thereof to the state board of education for its consideration and recommendation. The state board of education shall consider the existing

## **Community College District Elections Selected Code Sections**

opportunities for education beyond grade twelve (12) in the proposed district, the number of prospective students for such community college, the financial ability of the proposed district to maintain such college and furnish the standard of education contemplated by this chapter with income from tuition and other sources as herein provided. If the state board approves the establishment of such community college, it shall so advise the board of county commissioners within thirty (30) days after the receipt of such petition or petitions, and recommend that an election be called as herein provided for the organization of such district;

d. Upon receipt by the board of county commissioners of the written approval of the state board of education, the board of county commissioners shall enter an order that a special election be called within the proposed new district for the purpose of voting on the question of the creation of such district on one (1) of the election dates enumerated in section 34-106, Idaho Code. No notice of election need be posted, but notice shall be published, the election shall be conducted and the returns thereof canvassed as required in chapter 14, title 34, Idaho Code. The ballot shall contain the words "Community College District--Yes" and "Community College District--No," along with a voting position in which the voter may express his choice. If two-thirds (2/3) of all votes cast be in the affirmative, the board of county commissioners shall enter an order declaring such community college district established, designating its name and boundaries. A certified copy of such order shall forthwith be filed with the state board of education;

e. If the proposed district embraces an area in two (2) or more counties, the county in which it is proposed to locate the community college shall be considered the home county, in which the proceedings for the organization of the district shall be conducted, taken and had. Before calling an election on the creation of the proposed district, the board of county commissioners of the home county shall advise the board or boards of county commissioners of such other county or counties of the proposed election, to the end that a date may be agreed upon and the election be held in all counties affected on the same day. The board of county commissioners in any such other county shall give notice of the election, conduct the same and canvass the returns thereof as though it were the only county in which such election were being held. The returns of the election so canvassed shall be certified promptly to the board of county commissioners of the home county. The result of the election shall in turn be certified by the board of county commissioners of the home county to such board in each county in which the proposed district may lie, and if the result of the election be in the affirmative, a certified copy of the order creating the district shall be filed with the clerk of the board of county commissioners of such other county or counties, and entered into the minutes of the board therein. (History: S.L. 1963, Ch. 363; S.L. 2007, Ch. 241)

**33-2104A. COMMUNITY COLLEGE TRUSTEE ZONES.** (1) Each existing community college district shall be divided into five (5) trustee zones. Each trustee zone contains one (1) designated trustee position.

(2) The boundaries of the several trustee zones in each existing community college district shall be drawn so that the five (5) zones are as nearly equal in population as practicable. If a community college district is situated within two (2) or more counties, and any one (1) of the counties has sufficient population to warrant at least one (1) zone, then the boundaries of a trustee zone shall be located wholly within the boundaries of such county.

(3) A proposal to redefine the boundaries of trustee zones of a community college district shall be initiated by its board of trustees at the first meeting following the report of the decennial census or following the electors' approval of the addition of territory pursuant to section 33-2105, Idaho Code. The board of trustees shall submit the proposal to the state board of education within one hundred twenty (120) days following the decennial census or election. The proposal shall include a legal description of each proposed trustee zone, a map of the district showing how each proposed trustee zone would appear and the approximate population each zone would have should the proposal to change the boundaries of the trustee zones become effective.

## **Community College District Elections Selected Code Sections**

(4) Within sixty (60) days after receipt of a proposal submitted pursuant to subsection (3) of this section, the state board of education may approve or disapprove the proposal to redefine the boundaries of the trustee zones and shall give written notice of its decision to the board of trustees of the district wherein the change is proposed. If the state board of education disapproves a proposal, then it shall provide the board of trustees with a written explanation setting forth its reasons for disapproval. Within forty-five (45) days of receipt of a disapproval, the board of trustees shall submit a revised proposal to the state board of education. If the state board of education approves the proposal, then it shall notify the board of trustees, the trustee zones shall be changed in accordance with the proposal and a copy of the legal description of each trustee zone and map of the district showing how each trustee zone will appear shall be filed by the board of trustees with the county clerk of the home county.

(5) At the next regular meeting of the board of trustees following the state board's approval of a proposal submitted pursuant to subsection (4) of this section, the community college board of trustees shall appoint from its membership a trustee for each new zone to serve as trustee until that incumbent trustee's term expires. If the current board membership includes two (2) or more incumbent trustees who reside in the same trustee zone, then the following applies:

(a) The position on the board held by the trustee with the greatest amount of time remaining in such trustee's term shall be the position on the board designated to the zone wherein such trustee resides.

(b) If there is no difference in the amount of time remaining in the incumbents' terms, then the position on the board held by the most senior trustee shall be designated to the zone wherein such trustee resides.

(c) If there is no difference in seniority among the incumbents, then a majority vote of the sitting board, excluding the incumbents subject to the vote, shall determine which incumbent trustee shall be designated to the zone wherein such trustees reside and the remaining trustee or trustees shall be designated to the position or positions on the board in the zone or zones wherein no incumbent trustee resides.

(6) Any incumbent trustee whose position on the board has been designated to a zone other than the zone in which such trustee resides may complete their term; however, when the position is next scheduled to be placed on the ballot, only persons residing in the zone to which the position has been designated shall be eligible to run for the position.

(7) Notwithstanding the time requirements set forth in this section, on or before July 1, 2016, the board of trustees of each community college district formed before the effective date of this act shall obtain a state board of education-approved proposal to divide the district into five (5) trustee zones. Trustee terms due for the 2016 election shall be subject to the zoning and board position requirements set forth in this section. (History: S.L. 2016, Ch. 193)

**33-2105. ADDITION OF TERRITORY TO COMMUNITY COLLEGE DISTRICTS.** Any territory not in an existing community college district may become a part of a community college district by a vote of the school district electors resident of said territory, voting at an election called and held as herein provided.

A petition signed by not less than one hundred (100) school district electors of the territory proposed to be added to the community college district, or twenty percent (20%) of the school district electors within the territory, whichever is the lesser, describing the boundaries of the territory, and a true copy thereof, shall be filed with the board of trustees of the community college district. The board shall forward the original of said petition, with its recommendations, to the state board of education, and a copy thereof to the board of county commissioners of the home county of the community college district. The state board of education shall consider such petition, as it is required to consider a petition for the formation of a community college district. If it approve the petition, notice to that effect shall be given the board of trustees of the community college district and to the board of county commissioners of the home county of the community college district.

## **Community College District Elections Selected Code Sections**

When any such petition has been approved by the state board of education, an election shall be held in the manner of elections for the creation of a community college district, except that polling places shall be established only in the territory proposed to be added to the district. The question shall be deemed approved only if a majority of the votes cast in the territory were cast in favor of the proposal, and if this be the case, the territory shall be part of said community college district with all the force and effect as though said territory had been originally included in said community college district at the time of its original organization.

Notices to and by boards of county commissioners and to the state board of education shall be as provided in section 33-2104, Idaho Code. The state board of education shall notify the state liquor division that such territory has become a part of the community college district. (History: S.L. 1963, Ch. 363; S.L. 2009, Ch. 23)

**33-2106. TRUSTEES OF COMMUNITY COLLEGE DISTRICTS.** (1) The board of trustees of each community college district shall consist of five (5) electors who shall reside in a different trustee zone from each other and who shall be appointed or elected as provided in this section.

(a) Immediately following the establishment of a new community college district, the state board of education shall divide the district into five (5) trustee zones, which shall be as nearly equal in population as practicable. If a community college district is situated within two (2) or more counties, and any one (1) of the counties has sufficient population to warrant at least one (1) zone, then the boundaries of a trustee zone shall be located wholly within the boundaries of such county. The state board shall also appoint the members of the first board who shall serve until the election and qualification of their successors.

(b) At the first election of trustees after the creation of a district, five (5) trustees shall be elected: two (2) for terms of two (2) years each, and three (3) for terms of four (4) years each. Thereafter, the successors of persons so elected shall be elected for terms of four (4) years.

(c) Excluding any first election of trustees after the creation of a district, at any other election of trustees held in 2008, and in each trustee election thereafter, trustees shall be elected to terms of four (4) years. If more than two (2) trustee positions are eligible for election in 2008, one (1) trustee shall be elected to a term of four (4) years and two (2) trustees shall be elected to a term of six (6) years. Thereafter, the successors of persons so elected in 2008 shall be elected for terms of four (4) years.

(d) The expiration of any term shall be at the regular meeting of the trustees next following the election for the successor terms.

(2) Elections of trustees of community college districts shall be biennially, in even-numbered years, and shall be held on a date authorized in section 34-106, Idaho Code. Vacancies on the board of trustees shall be filled by appointment by the remaining members, but if by reason of vacancies there remain on the board less than a majority of the required number of members, appointment to fill such vacancies shall be made by the state board of education. Any person so appointed must reside in the trustee zone where the vacancy occurs and shall serve until the next trustee election, at which time his successor shall be elected for the unexpired term. The trustees shall take and subscribe the oath of office required in the case of state officers and said oath shall be filed with the secretary of state.

(3) Notice of the election, the conduct thereof, the qualification of electors and the canvass of returns shall be as prescribed in chapter 14, title 34, Idaho Code.

(4) All eligible electors within a community college district may vote for candidates in each and every zone. An individual who is a candidate for a specific zone of the community college district must reside in that same specific zone, and the candidate in each zone receiving the largest number of votes from the district shall be declared elected. An individual shall be a candidate for a specific position of the board and each candidate must declare which position he seeks on the board of trustees. If it be necessary to resolve a tie between two (2) or more persons, the board of trustees shall determine by lot which thereof

## **Community College District Elections Selected Code Sections**

shall be declared elected. The clerk of the board shall promptly notify any person by mail of his election, enclosing a form of oath to be subscribed by him as herein provided.

(5) When elections held pursuant to this section coincide with other elections held by the state of Idaho or any subdivision thereof, or any municipality or school district, the board of trustees may make agreement with the body holding such election for joint boards of election and the payment of fees and expenses of such boards of election on such proportionate basis as may be agreed upon.

(6) At its first meeting following the appointment of the first board of trustees, and at the first regular meeting following any community college trustee election, the board shall organize, and shall elect one (1) of its members chairman, one (1) a vice-chairman; and shall elect a secretary and a treasurer, who may be members of the board; or one (1) person to serve as secretary and treasurer, who may be a member of the board.

(7) The board shall set a given day of a given week in each month as its regular meeting time. Three (3) members of the board shall constitute a quorum for the transaction of official business.

(8) The authority of trustees of community college districts shall be limited in the manner prescribed in section 33-507, Idaho Code.

(9) Any decision of the state board of education issued pursuant to chapter 21, title 33, Idaho Code, may be appealed to the district court of any county in which the district or proposed district lies or shall lie. The pleadings and other papers shall be filed not more than sixty (60) days after notice of the order appealed and service of two (2) copies thereof shall be made upon the state board of education. (History: S.L. 1963, Ch. 363; am. 1973, Ch. 10; am. 2007, Ch. 92; am. 2008, Ch. 27; am. 2009, Ch. 341; am. 2011, Ch. 145; am. 2016, Ch. 193; am. 2019, Ch. 288.)

**33-2107. GENERAL POWERS OF THE BOARD OF TRUSTEES.** The board of trustees of each community college district shall have the power:

(1) To adopt policies and regulations for its own government and the government of the college;

(2) To employ legal counsel and other professional and nonprofessional persons, and to prescribe their qualifications;

(3) To acquire and hold, and to dispose of, real and personal property, and to construct, repair, remodel and remove buildings in the manner prescribed for trustees of school districts pursuant to sections 33-301 and 33-601, Idaho Code;

(4) To contract for the acquisition, purchase or repair of buildings in the manner prescribed for trustees of school districts pursuant to section 33-601, Idaho Code;

(5) To issue general obligation or revenue bonds in the manner now, or as may be, prescribed by law;

(6) To convey and transfer real property of the district upon which no college buildings used for instruction are situated, to nonprofit corporations, school districts, junior college housing commissions, counties or municipalities, with or without consideration; to rent real or personal property for the use of the college, its students or faculty, for such terms as may be determined by the board of trustees; to lease real property of the district not actually in use for college instructional purposes for such terms as may be determined by the board; and to lease real property and improvements to the Idaho state building authority, for a term not to exceed fifty (50) years, with or without consideration, and to enter into agreements with the Idaho state building authority for the Idaho state building authority to provide a facility, pursuant to section 67-6410, Idaho Code;

(7) To acquire, hold, and dispose of, water rights;

(8) To accept grants or gifts of money, materials or property of any kind from any governmental agency, or from any person, firm or association, on such terms as may be determined by the grantor;

(9) To cooperate with any governmental agency, or any person, firm or association in the conduct of any educational program; to accept grants from any source for the conduct of such program; and to conduct such program on, or off, campus;

***Community College District Elections  
Selected Code Sections***

(10) To invest any funds of the district in such securities, and apply the interest or profits from such investment, as prescribed for the investment of the funds, and the application of the interest or profits, in the case of school district boards of trustees. (History: S.L. 1963, Ch. 363; S.L. 2003, Ch. 349; S.L. 2016, Ch. 108)

## **Education Elections Frequently Asked Questions**

### **When are school elections held?**

School board trustee elections are held on the Tuesday following the first Monday in November in odd-numbered years. School districts may also hold elections on the second Tuesday in March, on the last Tuesday in August, and the dates authorized in May or November for bonded indebtedness and property tax levy questions. (34-106, 33-503 Idaho Code)

### **How many trustees are elected in a school district?**

Each elementary school district is divided into 3 trustee zones and each other school district is divided into no fewer than 5 nor more than 9 trustee zones in accordance with 33-501, Idaho Code.

Each elementary school district shall have three (3) members and each other school district shall have five (5) members. However, a district may have no more than 9 members. (33-313, 33-501, Idaho Code)

### **How do I know if I am eligible to vote in a school district election?**

Any person voting or offering to vote, in any school election must be, at the time of the election, eighteen (18) years of age and a United States citizen who has resided in this state and in the school district at least thirty (30) days next preceding the election in which the elector desires to vote and be a registered elector. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for school district trustees for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote.

The County Clerk's Election Office or the secretary of the district can tell you if you are eligible to vote in district elections. (33-405, 34-104, 34-1402, Idaho Code)

### **What are the requirements if I want to run for school board trustee?**

A trustee candidate must be a registered voter of the State of Idaho and a resident of the trustee zone from which nominated and elected or appointed. Candidates for election of trustee file their declaration of candidacy which include the name of the candidate, the term for which declaration of candidacy is made and the signatures of at least five (5) electors of the candidate's trustee zone.

Declaration of Candidacy forms are available from and are filed with the clerk of the board of trustees of the school district not later than 5:00 p.m. on the ninth Friday preceding the election. However, the forms are also available from the county clerk's elections office. (33-501, 33-502, 34-1404, Idaho Code; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

The county clerk administers school district elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code. The county clerk selects polling places, election judges and clerks.

The county clerk performs all necessary duties of the election official of a school district including, but not limited to, the publication of notice of the filing deadline and the notice of the election, and preparation of the election calendar. (34-1401, Idaho Code)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent as a write-in candidate. The declaration of intent shall be filed with the clerk of the board of trustees of the school district. Such declaration of intent shall be filed not later than forty-five (45) days before the day of election. The Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Elections Office. (34-1407, Idaho Code)

## ***Education Elections Frequently Asked Questions***

### **What if only one candidate files?**

In any election for trustees, if, after the expiration of the date for filing written nominations for the office of trustee, it appears that only one (1) qualified candidate has been nominated for a position to be filled or if only one (1) candidate has filed a write-in declaration of intent as provided by section 34-1407, Idaho Code, and has provided to the district's board clerk the signatures of 5 electors of the candidate's specific zone, then no election shall be held for that position. The board of trustees or the school district clerk, with the written permission of the board, shall declare such candidate elected as a trustee. The school district clerk shall immediately prepare and deliver to the person a certificate of election signed by him and bearing the seal of the district. *(33-502B, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the school district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can school district trustees be recalled?**

Yes. The provisions and procedures to recall elected officials are outlined in Title 34, Chapter 17, Idaho Code. General election procedures shall be followed for the recall of a school board trustee, however only the electors within the zone can sign the petition and cast votes in the election. *(34-1701, 33-503, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring in the office of the school district trustee is filled by the board of trustees within ninety (90) days and the board shall notify the state Superintendent of Public Instruction of the appointment. After ninety (90) days, if the board of trustees is unable to appoint a trustee from the zone vacated, the board of trustees may appoint a person at-large from within the boundaries of the school district to serve as the trustee from the zone where the vacancy occurred. Otherwise, after one hundred twenty (120) days from the declaration of vacancy, appointments shall be made by the board of county commissioners of the county in which the district is situate, or of the home county if the district be a joint district. *(33-504, Idaho Code)*

### **Do campaign finance disclosure laws apply to school district elections?**

Yes, school district trustee elections are subject to the Sunshine Laws when the school district has more than 500 students. Any report or filing is required to be filed with the County Clerk of the county where the district resides. If the district resides in more than 1 county, the report or filing will be filed with the County Clerk of the home county. *(33-503, Idaho Code)*



**Education Elections  
Selected Code Sections**

33-308	EXCISION AND ANNEXATION OF TERRITORY
33-310	CONSOLIDATION OF SCHOOL DISTRICTS
33-310A	CONSOLIDATION OF CONTIGUOUS SCHOOL DISTRICTS
33-310B	FEASIBILITY STUDY AND PLAN FOR CONSOLIDATION
33-311	PLAN OF CONSOLIDATION SUBMITTED TO ELECTORS
33-312	DIVISION OF SCHOOL DISTRICT
33-313	TRUSTEE ZONES
33-317	COOPERATIVE SERVICE AGENCY — POWERS — DUTIES — LIMITATIONS
33-354	INDEBTEDNESS — BOND ISSUES
33-355	LEVY FOR PLANT FACILITIES RESERVE FUND — ELECTIONS
33-401	LEGISLATIVE INTENT
33-402	NOTICE REQUIREMENTS
33-404	PLACES ELECTIONS TO BE HELD
33-405	QUALIFICATIONS OF SCHOOL ELECTORS
33-501	BOARD OF TRUSTEES
33-502	DECLARATIONS OF CANDIDACY FOR TRUSTEES
33-502B	BOARD OF TRUSTEES — ONE NOMINATION — NO ELECTION
33-503	ELECTION OF TRUSTEES — UNIFORM DATE
33-503A	REPEALED
33-504	VACANCIES ON BOARDS OF TRUSTEES
33-505	BOARD OF TRUSTEES, DISTRICT NEWLY CREATED
33-802	SCHOOL LEVIES
33-803	LEVY FOR EDUCATION OF CHILDREN OF MIGRATORY FARM WORKERS
33-804	SCHOOL PLANT FACILITIES RESERVE FUND LEVY
33-1103	DEFINITIONS — BONDS — LIMITATION ON AMOUNT — ELECTIONS TO AUTHORIZE ISSUANCE
33-1510	CONTRACTS FOR TRANSPORTATION SERVICE

Title 33 - Education  
Chapter 3 - School Districts

**33-308. EXCISION AND ANNEXATION OF TERRITORY.** (1) A board of trustees of any school district including a specially chartered school district, or one-fourth (1/4) or more of the school district electors, residing in an area of not more than fifty (50) square miles within which there is no schoolhouse or facility necessary for the operation of a school district, may petition in writing proposing the annexation of the area to another and contiguous school district.

(2) Such petition shall be in duplicate, one (1) copy of which shall be presented to the board of trustees of the district from which the area is proposed to be excised, and the other to the board of trustees of the district to which the area is proposed to be annexed. The petition shall contain:

- (a) The names and addresses of the petitioners;
- (b) A legal description of the area proposed to be excised from one (1) district and annexed to another contiguous district. Such legal description shall be prepared by a licensed attorney, licensed professional land surveyor or licensed professional engineer professionally trained and experienced in legal descriptions of real property;
- (c) Maps showing the boundaries of the districts as they presently appear and as they would appear should the excision and annexation be approved;
- (d) The names of the school districts from and to which the area is proposed to be excised and annexed;

**Education Elections  
Selected Code Sections**

(e) A description of reasons for which the petition is being submitted; and

(f) An estimate of the number of children residing in the area described in the petition.

(3) The board of trustees of each school district, no later than ten (10) days after its first regular meeting held subsequent to receipt of the petition, shall transmit the petition, with recommendations, to the state department of education.

(4) The state board of education shall approve the proposal provided:

(a) The excision and annexation is in the best interests of the children residing in the area described in the petition; and

(b) The excision of the territory, as proposed, would not leave a school district with a bonded debt in excess of the limit then prescribed by law.

If either condition is not met, the state board shall disapprove the proposal. The approval or disapproval shall be expressed in writing to the board of trustees of each school district named in the petition.

(5) If the state board of education shall approve the proposal, it shall be submitted to the school district electors residing in the area described in the petition, at an election held in the manner provided in chapter 14, title 34, Idaho Code. Such election shall be held on the date authorized in section 34-106, Idaho Code, which is nearest to sixty (60) days after the state board approves the proposal.

(6) At the election there shall be submitted to the electors having the qualifications of electors in a school district bond election and residing in the area proposed to be annexed:

(a) The question of whether the area described in the petition shall be excised from school district no. ( ) and annexed to contiguous school district no. ( ); and

(b) The question of assumption of the appropriate proportion of any bonded debt, and the interest thereon, of the proposed annexing school district.

(7) If a majority of the school district electors in the area described in the petition, voting in the election, shall vote in favor of the proposal to excise and annex the said area, and if in the area the electors voting on the question of the assumption of bonded debt and interest have approved such assumption by the proportion of votes cast as is required by section 3, article VIII, of the constitution of the state of Idaho, the proposal shall carry and be approved. Otherwise, it shall fail.

(8) If the proposal shall be approved by the electors in the manner prescribed, the board of canvassers shall thereupon promptly notify the state department of education and the affected school districts of such results. The superintendent of public instruction shall make an appropriate order for the boundaries of the affected school districts to be altered, and the legal descriptions of the school districts shall be altered, as prescribed in section 33-307, Idaho Code. (History: S.L.1963, Ch. 13; S.L. 1998, Ch. 244; S.L. 2009, Ch. 107; S.L. 2009, Ch. 341; S.L. 2010, Ch. 215)

**33-310. CONSOLIDATION OF SCHOOL DISTRICTS.** The boards of trustees of two (2) or more contiguous school districts may submit to the state board of education a plan for the consolidation of their districts into a single new district.

The plan shall contain as a minimum the following, and in addition any other information required by the state board of education:

(1) A map or maps showing the boundaries of the proposed new district, the boundaries of the component consolidating districts, the location of existing schoolhouses or other facilities of the component districts, the proposed trustee zones, and the proposed transportation routes if any;

(2) A legal description of the boundaries of the proposed new school district and of the trustee zones proposed, with estimates of the population in each such zone;

(3) The assessed value of taxable property of each component consolidating district and of the entire proposed new district;

(4) Outstanding general obligation bonds of any component consolidating district, sinking funds accumulated, and estimated proceeds of sinking fund levies in process of collection;

## **Education Elections Selected Code Sections**

(5) Whether any component district has established a plant facilities reserve fund, and if so the amount on hand in such fund, the obligations against the fund, and the levy being made for such fund together with estimate of the proceeds of such levy in process of collection;

(6) The amount of any outstanding and unpaid bonds that will become the obligation of the subdistricts, pursuant to section 33-311, Idaho Code, after the application of any plant facility reserve funds, pursuant to section 33-901, Idaho Code. The plan shall also show for each subdistrict the estimated amount of state subsidies to be received, the estimated bond levy rate and the year in which the last levy will be made;

(7) If a joint district, the designation of the home county;

(8) The official name and number of the proposed new district; and

(9) How the property, real and personal, of former districts shall vest in the new district.

Before submitting any proposal for consolidating school districts to the state board of education, the board of trustees of each proposing district shall first call and cause to be held, within said district, a hearing on the proposal. Notice of the time and place of such hearing shall be given, by each such district, by two (2) publications in a newspaper of general circulation in the district, the first and last publications being not less than six (6) days apart.

At such hearings, any school district elector or taxpayer of the district may appear and be heard, and may request any information from the board of trustees, concerning the proposed consolidation. Records of the hearings shall be entered in the minutes of each board of trustees and shall be included with the plan of proposed consolidation if and when it is submitted to the state board of education.

Following any hearing, it shall be within the discretion of the board of trustees of any proposing district whether it shall further proceed in the plan for consolidating the districts. (History: S.L. 1963, Ch. 13; S.L. 2007, Ch. 79)

**33-310A. CONSOLIDATION OF CONTIGUOUS SCHOOL DISTRICTS.** In addition to the procedure contained in section 33-310, Idaho Code:

A. five per cent (5%) or more of the registered voters from each of two (2) or more contiguous school districts, when such districts coincide with election precincts, or,

B. a number of registered voters equal to fifteen per cent (15%) or more of the aggregate number of votes cast at the last three (3) elections for school trustees in each of the school districts, may petition in writing proposing the consolidation of their districts into a single new district. One (1) copy of such petition shall be presented to the board of trustees of each district included in the proposed consolidation. The petition shall contain:

1. The names and addresses of the petitioners;

2. A map or maps showing the boundaries of the proposed new district, the boundaries of the component consolidating districts, the location of existing schoolhouses or other facilities of the component districts, the proposed trustee zones, and the proposed transportation routes, if any.

When the petitions are received by the boards of trustees, the provisions of section 33-310, Idaho Code, shall become mandatory upon the boards so affected. The petitioners shall have the right to cooperate in the formulation of the proposed consolidated school district with the board of trustees of each school district affected thereby. The provisions of section 33-310, Idaho Code, shall be complied with and the proposed consolidation together with the testimony given at the public hearings shall be submitted to the state board of education within three (3) months after the first meeting of the combined boards and the petitioners. The first meeting of the combined boards and the petitioners shall be within fifteen (15) days after the petitions are submitted by the petitioners. (History: S.L. 1970, Ch. 86)

## ***Education Elections Selected Code Sections***

**33-310B. FEASIBILITY STUDY AND PLAN FOR CONSOLIDATION.** All school districts operating one (1) or more high schools may conduct a feasibility study and prepare a plan for school consolidation, which may also include school district consolidation. The cost of such feasibility studies and plans shall be reimbursed at an amount not to exceed ten thousand dollars (\$10,000) per each school district that proposes to consolidate, in accordance with rules promulgated by the state board of education. The state board of education shall review and act upon all plans for school consolidation. (History: S.L. 1989, Ch. 296; S.L. 1998, Ch. 88; S.L. 2007, Ch.79)

**33-311. PLAN OF CONSOLIDATION SUBMITTED TO ELECTORS.** The state board of education may approve or disapprove any plan proposing consolidation, and if it approves the same the department of education shall give notice thereof to the board of trustees of each school district proposing to consolidate and to the board of county commissioners in each county in which the proposed consolidated district would lie. Notice to the board of county commissioners shall include the legal description of the boundaries of the proposed consolidated district and a brief statement of the approved proposal, and shall be accompanied by a map of the proposed consolidated district.

Not more than ten (10) days after receiving the notice from the state department of education, each board of county commissioners receiving such notice shall enter the order calling for an election on the question of approving or disapproving, and shall cause notice of such election to be published. The notice shall be published, the election shall be held and conducted and its results canvassed, in the manner and form of title 34, Idaho Code.

If the qualified school electors of any one (1) district proposing to consolidate, and voting in the election, shall constitute a majority of all such electors voting in the entire area of the proposed consolidated district, the proposed consolidation shall not be approved unless a majority of such electors in such district, voting in the election, and a majority of such electors in each of the remaining districts, voting in the election, shall approve the proposed consolidation.

If the qualified school electors in no one (1) of the districts proposing to consolidate, and voting in the election, constitute a majority of all such electors voting in the entire area of the proposed consolidated district, the proposed consolidation shall not be approved unless a majority of all such electors in each district, voting in the election, shall approve the proposed consolidation.

In any plan of consolidation the existing bonded debt of any district or districts proposing to consolidate, shall not become the obligation of the proposed consolidated school district. The debt or debts shall remain an obligation of the property within the districts proposing the consolidation. Upon voter approval of the proposed consolidation, the districts proposing to consolidate shall become subdistricts of the new district as if they had been created under the provisions of section 33-351, Idaho Code. The subdistricts shall be called bond redemption subdistricts. The powers and duties of such bond redemption subdistricts shall not include authority to incur new indebtedness within the subdistricts.

When a consolidation is approved, as hereinabove prescribed, a new school district is thereby created. The board of canvassers shall thereupon promptly notify the state department of education and the affected school districts of such result. The superintendent of public instruction shall make an appropriate order showing the creation of the district, a legal description of its boundaries, and the legal descriptions of the boundaries of the affected school districts as prescribed in section 33-308, Idaho Code. (History: S.L. 1963, Ch. 13; S.L. 1985, Ch. 237; S.L. 1989, Ch. 296; S.L. 2009, Ch. 107; S.L. 2009, Ch. 341)

**33-312. DIVISION OF SCHOOL DISTRICT.** A school district may be divided so as to form not more than two (2) districts each of which must have contiguous boundaries, in the manner hereinafter provided, except that any district which operates and maintains a secondary school or schools shall not be divided unless the two (2) districts created out of the division shall each operate and maintain a secondary school or schools immediately following such division.

## ***Education Elections Selected Code Sections***

A proposal to divide a school district may be initiated by its board of trustees and submitted to the state department of education. Such proposal shall contain all of the information required in a proposal to consolidate school districts as may be relevant to a proposal to divide a school district. It shall also show the manner in which it is proposed to divide or apportion the property and liabilities of the district, the names and numbers of the proposed new districts, and legal description of the proposed trustee zones.

Before submitting any proposal to divide a school district, the board of trustees shall hold a hearing or hearings on the proposal within the district. Notice of such hearing or hearings shall be posted by the clerk of the board of trustees in not less than three (3) public places within the district, one (1) of which places shall be at or near the main door of the administrative offices of the school district, for not less than ten (10) days before the date of such hearing or hearings.

The department of education shall present any such proposal to the state board of education, which may approve or disapprove the proposal, and the department of education shall give notice thereof in the manner of a proposal to consolidate school districts; except, that the state board of education shall not approve any proposal which would result in a district to be created by the division having or assuming a bonded debt in an amount exceeding the limitations imposed by law, or which would leave the area of any city in more than one (1) school district.

If the state board of education shall approve the proposal to divide the district, notice of the election shall be published and the election shall be held subject to the provisions of section 34-106, Idaho Code. The election shall be conducted, and the ballots shall be canvassed, according to the provisions of title 34, Idaho Code. The division shall be approved only if a majority of all votes cast at said special election by the school district electors residing within the entire existing school district and voting in the election are in favor of the division of such district, and a majority of all votes cast at said special election by the qualified voters within that portion of the proposed new district having a minority of the number of qualified voters, such portion to be determined by the number of votes cast in each area which is a contemplated new district, are in favor of the division of the district, and upon such approval two (2) new school districts shall be thereby created. The organization and division of all school districts which have divided since June 30, 1963, are hereby validated.

If the division is approved, as herein provided, two (2) new school districts are thereby created. The board of canvassers shall thereupon promptly notify the state department of education and the affected school districts of such result. The superintendent of public instruction shall make an appropriate order showing the creation of the districts and a legal description of the boundaries, and the legal descriptions of the affected school districts shall be altered, as prescribed in section 33-307, Idaho Code. (History: S.L. 1963, Ch. 13; S.L. 1963, Ch. 175; S.L. 1965, Ch. 272; S.L. 1969, Ch. 152; S.L. 2009, Ch. 107; S.L. 2009, Ch. 341, S.L. 2011, Ch. 151)

**33-313. TRUSTEE ZONES.** (1) Each elementary school district shall be divided into three (3) trustee zones and each other school district shall be divided into no fewer than five (5) nor more than nine (9) trustee zones according to the provisions of section 33-501, Idaho Code. A school district that has had a change in its district boundaries because of consolidation on and after January 1, 2008, shall divide trustee zones so that each former district in the new district shall not be split into different trustee zones, unless the provisions of subsection (2) of this section cannot be satisfied.

(2) Any proposal to define the boundaries of the several trustee zones in each such school district shall include the determination, where appropriate, of the number of trustee zones in such district, and the date of expiration of the term of office for each trustee. The boundaries of the several trustee zones in each such school district shall be defined and drawn so that, as reasonably as may be, each such zone shall have approximately the same population.

(3) Whenever the area of any district has been enlarged by the annexation of all or any part of another district, or by the correction of errors in the legal description of school district boundaries, any such

## ***Education Elections Selected Code Sections***

additional territory shall be included in the trustee zone or zones contiguous to such additional territory until such time as the trustee zones may be redefined and changed. Trustee zones may be redefined and changed not more than once every five (5) years in the manner hereinafter provided.

(4) A proposal to redefine and change trustee zones of any district may be initiated by its board of trustees and shall be initiated by its board of trustees at the first meeting following the report of the decennial census, and submitted to the state board of education, or by petition signed by not less than fifty (50) school electors residing in the district, and presented to the board of trustees of the district. Within one hundred twenty (120) days following the decennial census or the receipt of a petition to redefine and change the trustee zones of a district the board of trustees shall prepare a proposal for a change which will equalize the population in each zone in the district and shall submit the proposal to the state board of education. Any proposal shall include a legal description of each trustee zone as the same would appear as proposed, a map of the district showing how each trustee zone would then appear, and the approximate population each would then have, should the proposal to change any trustee zones become effective.

(5) Within sixty (60) days after it has received the said proposal the state board of education may approve or disapprove the proposal to redefine and change trustee zones and shall give notice thereof in writing to the board of trustees of the district wherein the change is proposed. Should the state board of education disapprove a proposal, the board of trustees shall, within forty-five (45) days, submit a revised proposal to the state board of education. Should the state board of education approve the proposal, it shall notify the school district, the trustee zones shall be changed in accordance with the proposal and a copy of the legal description of each trustee zone and map of the district showing how each trustee zone will appear shall be filed by the school district with the county clerk.

(6) At the next regular meeting of the board of trustees following the approval of the proposal the board shall appoint from its membership a trustee for each new zone to serve as trustee until that incumbent trustee's term expires. If the current board membership includes two (2) incumbent trustees from the same new trustee zone, the board will select the incumbent trustee with the most seniority as a trustee to serve the remainder of his term. If both incumbent trustees have equal seniority, the board will choose one (1) of the trustees by the drawing of lots. If there is a trustee vacancy in any of the new zones, the board of trustees shall appoint from the patrons resident in that new trustee zone, a person from that zone to serve as trustee until the next annual meeting. At the annual election a trustee shall be elected to serve during the term specified in the election for the zone. The elected trustee shall assume office at the annual meeting of the school district next following the election. (History: S.L. 1963, Ch. 13; S.L. 1967, Ch. 403; S.L. 1969, Ch. 412; S.L. 1973, Ch. 125; S.L. 1979, Ch. 271; S.L. 1984, Ch. 94; S.L. 1989, Ch. 121; S.L. 1990, Ch. 31; S.L. 1994, Ch. 182; S.L. 2001, Ch. 163; S.L. 2008, Ch. 351; S.L. 2009, Ch. 341; S.L. 2014, Ch. 162)

**33-317. COOPERATIVE SERVICE AGENCY — POWERS — DUTIES — LIMITATIONS.** (1) Two (2) or more school districts may join together for educational purposes to form a service agency to purchase materials and/or provide services for use individually or in combination. The cooperative service agency thus formed shall be empowered to adopt bylaws, and act as a body corporate and politic with such powers as are assigned through its bylaws but limited to the powers and duties of local school districts. In its corporate capacity, this agency may sue and be sued and may acquire, hold and convey real and personal property necessary to its existence. The employees of the service agency shall be extended the same general rights, privileges and responsibilities as comparable employees of a school district. The cooperative service agency may elect to be its own fiscal agent for the purposes of providing an alternative school program, with the concurrence of the school districts for which it provides such services. In doing so the educational support program payments made pursuant to section 33-1002, Idaho Code, that would have been distributed to the school district acting as the fiscal agent, shall instead be distributed to

## ***Education Elections Selected Code Sections***

the cooperative service agency.

(2) A properly constituted cooperative service agency may request from its member school districts funding to be furnished by a tax levy not to exceed one-tenth of one percent (.1%) for a period not to exceed ten (10) years by such member school districts. Such levy must be authorized by an election held subject to the provisions of section 34-106, Idaho Code, and be conducted in each of the school districts pursuant to chapter 14, title 34, Idaho Code, and approved by a majority of the district electors voting in such election. Moneys received by the member school districts from this source shall be transferred to the cooperative service agency upon receipt of billing from the agency. Excess revenue over billing must be kept in a designated account by the district, with accrued interest, and may only be spent as budgeted by the agency.

(3) For the purpose of constructing and maintaining facilities of a cooperative service agency, in addition to the levy authorized in subsection (2) of this section, a properly constituted cooperative service agency may request from its member school districts additional funding to be furnished by a tax levy not to exceed four-tenths of one percent (.4%) for a period not to exceed ten (10) years. Such levy must be authorized by an election held subject to the provisions of section 34-106, Idaho Code, and be conducted in each of the school districts pursuant to chapter 14, title 34, Idaho Code, and approved by sixty-six and two-thirds percent (66 2/3%) of the district electors voting in such election. If one (1) or more of the member districts fails to approve the tax levy in such election, the cooperative service agency may construct the facility through the support of the member districts approving the levy, but in no event shall the levy limits authorized in this subsection (3) be exceeded. Nothing shall prevent a member district that initially failed to approve the levy from conducting a subsequent election, held pursuant to section 34-106, Idaho Code, to authorize that district's participation in construction of the facility. Electors of the districts may approve continuation of such levy for an additional ten (10) years at an election held for that purpose. There is no limit on the number of elections which may be held for the purpose of continuing the levy authorized under this subsection (3) for an additional ten (10) years. The administration and accounting of moneys received by imposition of the levy shall be the same as provided in subsection (2) of this section. (History: S.L. 1967, Ch. 362; S.L. 1972, Ch. 105; S.L. 1985, Ch. 107; S.L. 1989, Ch. 17; S.L. 1991, Ch. 111; S.L. 2006, Ch. 306; S.L. 2008, Ch. 104; S.L. 2009, Ch. 220; S.L. 2009, Ch. 227; S.L. 2009, Ch. 341)

**33-354. INDEBTEDNESS — BOND ISSUES.** School subdistricts may incur debt and issue bonds for the same purposes as set forth in section 33-1102, Idaho Code. The governing body of a school subdistrict may submit to the qualified electors of the school subdistrict the question of whether the governing body of the school subdistrict shall be empowered to issue negotiable bonds of the school subdistrict in an amount and for a period of time to be named in the notice of election. Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed and the qualifications of electors voting or offering to vote shall be as provided in title 34, Idaho Code. The question of the issuance of such bonds shall be approved only if the percentage of votes cast at such election were cast in favor thereof as that which is now, or may hereafter be, set by the constitution of the state of Idaho. All such bonds shall be authorized, issued and sold pursuant to the provisions of sections 33-1107 through 33-1121, Idaho Code. No bonds of a school subdistrict may be issued, however, if the issuance of such bonds would cause the percentage of market value for assessment purposes of taxable property within the boundaries of the school subdistrict represented by the aggregate outstanding indebtedness of the school subdistrict, when added to the percentage of the assessed valuation of taxable property represented by the aggregate outstanding indebtedness of the school district within which the school subdistrict lies, to exceed five percent (5%). As used in the preceding sentence hereof, "market value for assessment purposes," "aggregate outstanding indebtedness" and "issuance" shall have the same meanings as set forth in section 33-1103, Idaho Code. Upon the approval of the issuance of such bonds,

## ***Education Elections Selected Code Sections***

the same may be issued by the governing body of the school subdistrict on behalf of the school subdistrict at any time within two (2) years from the date of such election. Wherever in title 34, Idaho Code, and in sections 33-1107 through 33-1121, Idaho Code, reference is made to “school district”; for purposes of this chapter it shall be deemed to refer to school subdistricts. (History: S.L. 1986, Ch. 61; S.L. 2009, Ch. 341; S.L. 2013, Ch. 183; S.L. 2014, Ch. 260)

**33-355. LEVY FOR PLANT FACILITIES RESERVE FUND — ELECTIONS.** The governing body of a school subdistrict may call an election in the school subdistrict, pursuant to the provisions of section 33-804, Idaho Code, for the purpose of submitting to the qualified school electors of the school subdistrict the question of a levy by a school subdistrict of a school plant facilities reserve fund tax. (History: S.L. 1986, Ch. 61)

### Title 33 - Education Chapter 4 - School Elections

**33-401. LEGISLATIVE INTENT.** The legislature finds that a comprehensive and integrated statutory scheme for the conduct of school elections is critical to the public’s understanding of and confidence in the public school election system. It is therefore the intent of the legislature that the provisions of title 18, Idaho Code, and the provisions of title 34, Idaho Code, shall be fully applicable and shall govern all school elections. All school elections shall be administered by the clerk of the county wherein the district lies. Elections in a joint school district shall be conducted jointly by the clerks of the respective counties, and the clerk of the home county shall exercise such powers as are necessary to coordinate the election. (History: S.L.1982, Ch. 60; S.L. 2009, Ch. 341)

**33-402. NOTICE REQUIREMENTS.** (1) Notice of annual meeting of elementary school districts as provided for in section 33-510, Idaho Code, and of intent to discontinue a school, as provided for in section 33-511, Idaho Code, and annual budget hearing as provided for in section 33-801, Idaho Code, shall be given by posting (2) for not less than ten (10) days, and publishing once in a newspaper as provided in section 60-106, Idaho Code, published within the district, or, if there be none, then in a newspaper as provided in section 60-106, Idaho Code, published in the county in which such district lies. If more than one (1) newspaper is printed and published in said district or county, then in the newspaper most likely to give best general notice of the election within said district; provided that if no newspaper is published in the said district or county, then in a newspaper as provided in section 60-106, Idaho Code, most likely to give best general notice of the election within the district. If a financial emergency has been declared pursuant to section 33-522, Idaho Code, the notice of annual meeting and the notice of the annual budget hearing shall be posted pursuant to subsection (2) of this section, for not less than five (5) days, and by such further notice as shall provide reasonable notice to the patrons of the school district if publication in a newspaper is not feasible.

(2) Notices calling for bids for the acquisition, use, or disposal of real and personal property as provided for in section 33-601, Idaho Code, and contracting for transportation services as provided for in section 33-1510, Idaho Code, shall be given in a newspaper of general circulation as required by chapter 1, title 60, Idaho Code, except that the notice for contracting for transportation services shall be made not less than four (4) weeks before the date of opening bids.

(3) Proof of posting notice shall be upon the affidavit of the person posting the same; and proof of publication shall be upon the affidavit of the publisher of the newspaper or newspapers respectively. Such affidavits shall be filed with the board by the clerk responsible for the posting and the publishing of said notice. (History: S.L. 1963, Ch. 13; S.L. 1972, Ch. 93; S.L. 1978, Ch. 65; S.L. 1979, Ch. 130; S.L. 1982, Ch. 60; S.L. 1985, Ch. 235; S.L. 1992, Ch. 187; S.L. 1997, Ch. 40; S.L. 2005, Ch. 213; S.L. 2007, Ch.



**Education Elections  
Selected Code Sections**

166; S.L. 2009, Ch. 171; S.L. 2009, Ch. 341; S.L. 2011, Ch. 151)

**33-404. PLACES ELECTIONS TO BE HELD.** In elections involving excision and annexation of territory, or the consolidation of school districts, or the division of a school district, each notice of election shall designate that polling places shall be established, as follows:

In an election involving excision and annexation of territory, polling places shall be established pursuant to section 34-302, Idaho Code, in the district to which the territory or area is to be annexed; in the territory or area to be annexed; and in the remainder of the school district from which the territory or area is to be excised.

In an election involving consolidation of school districts, polling places shall be established pursuant to section 34-302, Idaho Code.

In an election involving the division of a school district, polling places shall be established pursuant to section 34-302, Idaho Code.

In any school election held within a joint school district, polling places shall be designated and established pursuant to section 34-302, Idaho Code, within such district, in each county. (History: S.L. 1963, Ch. 13; S.L. 1982, Ch. 60; S.L. 1983, Ch. 37; S.L. 2009, Ch. 341)

**33-405. QUALIFICATIONS OF SCHOOL ELECTORS.** Any person voting, or offering to vote, in any school election must be, at the time of the election eighteen (18) years of age and a United States citizen who has resided in this state and in the school district at least thirty (30) days next preceding the election in which the elector desires to vote. In the case of election of trustees, the elector must be a resident of the same trustee zone as the candidate or candidates for school district trustees for whom the elector offers to vote for at least thirty (30) days next preceding the election in which the elector desires to vote.

Registration requirements set forth in chapter 4, title 34, Idaho Code, shall be applicable to school elections. The elector may be required to furnish to the election official proof of residence, which proof shall be established by either an Idaho motor vehicle driver's license or any other document definitely establishing the elector's residence within the school district or trustee zone. (History: S.L. 1963, Ch. 13; S.L. 1969, Ch. 177; S.L. 1970, Ch. 37; S.L. 1970, Ch. 136; S.L. 1971, Ch. 25; S.L. 1982, Ch. 60; S.L. 1985, Ch. 257; S.L. 1987, Ch. 256; S.L. 1989, Ch. 88; S.L. 2009, Ch. 341)

Title 33 - Education  
Chapter 5 - District Trustees

**33-501. BOARD OF TRUSTEES.** (1) Each school district shall be governed by a board of trustees. The board of trustees of each elementary school district shall consist of three (3) members, and the board of trustees of each other school district shall consist of five (5) members. Provided, however, that the board of trustees of any district which has had a change in its district boundaries subsequent to June 30, 1973, may consist of no fewer than five (5) nor more than nine (9) members if such provisions are included as part of an approved proposal to redefine and change trustee zones as provided in section 33-313, Idaho Code. The board of trustees of any district that has had a change in its district boundaries because of district consolidation on and after January 1, 2008, shall consist of five (5) members if two (2) districts consolidated or seven (7) members if three (3) or more districts consolidated. Commencing in 2018, a school district trustee shall be elected for a term of four (4) years beginning at twelve o'clock noon on January 1 next succeeding his election.

(2) Each trustee shall at the time of his nomination and election, or appointment, be a school district elector of his district and a resident of the trustee zone from which nominated or appointed. In the event that a vacancy shall be declared as provided in section 33-504, Idaho Code, and the board of trustees is unable to appoint a trustee from the zone vacated after ninety (90) days, the board of trustees may

## ***Education Elections Selected Code Sections***

appoint a person at-large from within the boundaries of the school district to serve as the trustee from the zone where the vacancy occurred.

(3) Each trustee shall qualify for and assume office on January 1 next following his election, or, if appointed, at the regular meeting of the board of trustees next following such appointment. At the first meeting after a trustee assumes office, an oath of office shall be administered to the trustee, whether elected, reelected or appointed. Said oath may be administered by the clerk, or by another trustee, of the district, and the records of the district shall show such oath of office to have been taken, and by whom administered and shall be filed with the official records of the district. (History: S.L. 1963, Ch. 13; S.L. 1973, Ch. 125; S.L. 1980, Ch. 32; S.L. 2008, Ch. 351; S.L. 2009, Ch. 57; S.L. 2009, Ch. 341; S.L. 2018, Ch. 164)

**33-502. DECLARATIONS OF CANDIDACY FOR TRUSTEES.** Any person legally qualified to hold the office of school trustee, may file a declaration of candidacy for the office, each of which shall bear the name of the candidate, state the term for which declaration of candidacy is made, and bear the signature of not less than five (5) school district electors resident of the trustee zone of which the candidate is resident. The declaration shall be filed with the clerk of the board of trustees of the school district as provided in section 34-1404, Idaho Code. (History: S.L. 1963, Ch. 13; S.L. 1967, Ch. 9; S.L. 1992, Ch. 187; S.L. 2011, Ch. 11)

**33-502B. BOARD OF TRUSTEES — ONE NOMINATION — NO ELECTION.** In any election for trustees, if, after the expiration of the date for filing written nominations for the office of trustee, it appears that only one (1) qualified candidate has been nominated for a position to be filled or if only one (1) candidate has filed a write-in declaration of intent as provided by section 34-1407, Idaho Code, and has provided to the district's board clerk the signatures of five (5) electors of the candidate's specific zone, then no election shall be held for that position. The board of trustees or the school district clerk, with the written permission of the board, shall declare such candidate elected as a trustee. The school district clerk shall immediately prepare and deliver to the person a certificate of election signed by him and bearing the seal of the district. The procedure set forth in this section shall not apply to any other school district election. (History: S.L. 1990, Ch. 332; S.L. 1993, Ch. 51; S.L. 1994, Ch. 160; S.L. 2004, Ch. 26; S.L. 2009, Ch. 341; S.L. 2016, Ch. 261)

**33-503. ELECTION OF TRUSTEES — UNIFORM DATE.** (1) The election of school district trustees including those in charter districts shall be on the Tuesday following the first Monday in November in odd-numbered years. Notice and conduct of the election, and the canvassing of the returns shall be as provided in chapter 14, title 34, Idaho Code. In each trustee zone, the person receiving the greatest number of votes cast within his zone shall be declared by the board of trustees as the trustee elected from that person's zone.

(2) If any two (2) or more persons residing in the same trustee zone have an equal number of votes and a greater number than any other nominee residing in that zone, then the board of trustees shall determine the winner by a toss of a coin.

(3) Incumbent trustees as of the effective date of this act shall have their terms expire on January 1 following the November election of their successors. (History: S.L. 1963, Ch. 13; am. 1973, Ch. 97; am. 1975, Ch. 181; am. 2009, Ch. 341; am. 2015, Ch. 248; am. 2018, Ch. 164; am. 2019, Ch. 288.)

**33-503A. [Repealed - S.L. 2015, Ch. 12]**

## ***Education Elections Selected Code Sections***

**33-504. VACANCIES ON BOARDS OF TRUSTEES.** A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustee shall (a) die; (b) resign as trustee; (c) remove himself from his trustee zone of residence; (d) no longer be a resident or school district elector of the district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend four (4) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in law.

Such declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above-mentioned conditions are determined to exist.

The board of trustees shall appoint to such vacancy a person qualified to serve as trustee of the school district provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the state superintendent of public instruction of the appointment. Such appointment shall be made within ninety (90) days of the declaration of vacancy. After ninety (90) days, if the board of trustees is unable to appoint a trustee from the zone vacated, the board of trustees may appoint a person at-large from within the boundaries of the school district to serve as the trustee from the zone where the vacancy occurred. Otherwise, after one hundred twenty (120) days from the declaration of vacancy, appointments shall be made by the board of county commissioners of the county in which the district is situate, or of the home county if the district be a joint district.

Any person appointed as herein provided shall serve for the balance of the unexpired term of the office which was declared vacant and filled by appointment. (History: S.L. 1963, Ch. 13; S.L. 1975, Ch. 181; S.L. 1984, Ch. 94; S.L. 1986, Ch. 348; S.L. 1987, Ch. 141; S.L. 2009, Ch. 341)

**33-505. BOARD OF TRUSTEES, DISTRICT NEWLY CREATED.** (1) Within ten (10) days after the entry of any order creating a new school district by the consolidation of districts or parts thereof, the trustees of all school districts involved in the consolidation shall meet at the call of the state superintendent of public instruction or his designee and, from their number, shall select a board of trustees of the new district representing each of the merged districts in an equal number to serve as follows: if two (2) districts consolidated, one (1) member representing the board of trustees of each district shall serve until the annual election of trustees next following; one (1) member representing the board of trustees of each district shall serve until the annual election the following year; and one (1) member appointed by the other four (4) members shall serve until the annual election in the year after that. If three (3) or more districts consolidated, three (3) members shall serve until the annual election of trustees next following; three (3) members shall serve until the annual election the following year; and one (1) member appointed by the other six (6) members shall serve until the annual election in the year after that. If the number of merged districts is greater than three (3), the superintendent of public instruction shall appoint as equally as possible from trustees of the previous districts so that each district, if possible, has representation on the consolidated district's board of trustees. The superintendent shall stagger the terms of his appointments so that an equal number of appointees' terms expire annually and those trustees shall sit for election. Thereafter, all trustees who are elected shall serve terms as provided in section 33-501, Idaho Code, for a board of trustees of a school district. The board of trustees shall report the names of said trustees to the state board of education. The board of trustees of the newly consolidated school district shall expeditiously redraw the trustee zones pursuant to section 33-313, Idaho Code.

(2) The state board of education, at its first meeting next following receipt of notice of the creation of new school districts by the division of a district, shall appoint a board of trustees for each such new district, to serve until January 1 following the next election for school district trustees.

(3) Boards of trustees selected or appointed as in this section provided shall forthwith meet and organize as provided in section 33-506, Idaho Code, and thereupon the board of trustees of any district, the whole of which has been incorporated within the new district, or which was divided as the case may be, shall be dissolved and its powers and duties shall cease. Prior to the notice of annual election of trustees next

## ***Education Elections Selected Code Sections***

following, the board of trustees of each school district created by consolidation or by division of districts shall determine by lot or by agreement from which of the trustee zones the trustees therefor shall be elected. Thereafter each trustee shall be elected for a term of four (4) years. (History: S.L. 1963, Ch. 13; S.L. 2008, Ch. 351; S.L. 2009, Ch. 341, S.L. 2018, Ch. 164)

### Title 33 - Education Chapter 8 - Budget and Tax Levy

**33-802. SCHOOL LEVIES.** Any tax levied for school purposes shall be a lien on the property against which the tax is levied. The board of trustees shall determine the levies upon each dollar of taxable property in the district for the ensuing fiscal year as follows:

(1) Bond, Interest and Judgment Obligation Levies. Such levies as shall be required to satisfy all maturing bond, bond interest, and judgment obligations.

(2) Budget Stabilization Levies. School districts not receiving state equalization funds in fiscal year 2006 may authorize a budget stabilization levy for calendar year 2006 and each year thereafter. Such levies shall not exceed the difference between the amount of equalized funds that the state department of education estimates the school district will receive in fiscal year 2007, based on the school district's fiscal year 2006 reporting data, and the combined amount of money the school district would have received from its maintenance and operation levy and state property tax replacement funds in fiscal year 2007 under the laws of the state of Idaho as they existed prior to amendment by the first extraordinary session of the fifty-eighth Idaho legislature. The state department of education shall notify the state tax commission and affected counties and school districts of the maximum levy amounts permitted, by no later than September 1, 2006.

(3) Supplemental Maintenance and Operation Levies. No levy in excess of the levy permitted by this section shall be made by a noncharter district unless such a supplemental levy in a specified amount and for a specified time not to exceed two (2) years be first authorized through an election held subject to the provisions of section 34-106, Idaho Code, and pursuant to title 34, Idaho Code, and approved by a majority of the district electors voting in such election. A levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees in the second year.

(4) Charter District Supplemental Maintenance and Operation. Levies pursuant to the respective charter of any such charter district shall be first authorized through an election held subject to the provisions of section 34-106, Idaho Code, and pursuant to title 34, Idaho Code, and approved by a majority of the district electors voting in such election.

(5) The board of trustees of any school district that has, for at least seven (7) consecutive years, been authorized through an election held to certify a supplemental levy that has annually been equal to or greater than twenty percent (20%) of the total general maintenance and operation fund, may submit the question of an indefinite term supplemental levy to the electors of the school district. Such question shall clearly state the dollar amount that will be certified annually and that the levy will be for an indefinite number of years. The question must be approved by a majority of the district electors voting on the question in an election held subject to the provisions of section 34-106, Idaho Code, and pursuant to title 34, Idaho Code. The levy approved pursuant to this subsection may be reduced by a majority vote of the board of trustees during any fiscal year.

(6) A charter district may levy for maintenance and operations if such authority is contained within its charter. In the event property within a charter district's boundaries is contained in a revenue allocation area established under chapter 29, title 50, Idaho Code, and such revenue allocation area has given notice of termination thereunder, then, only for the purpose of determining the levy described in this subsection, the district may add the increment value, as defined in section 50-2903, Idaho Code, to the actual or adjusted market value for assessment purposes of the district as such value existed on

## ***Education Elections Selected Code Sections***

December 31 of the previous year. (History: S.L. 1963, Ch. 13; S.L. 1963, Ch. 422; S.L. 1970, Ch. 61; S.L. 1973, Ch. 296; S.L. 1979, Ch. 254; S.L. 1980, Ch. 390; S.L. 1981, Ch. 224; S.L. 1983, Ch. 235; S.L. 1987, Ch. 52; S.L. 1987, Ch. 273; S.L. 1988, Ch. 344; S.L. 1989, Ch. 8; S.L. 1991, Ch. 313; S.L. 1995, Ch. 26; S.L. 1996, Ch. 322; S.L. 2005, Ch. 191; S.L. 2006, Ch. 1; S.L. 2009, Ch. 341)

**33-803. LEVY FOR EDUCATION OF CHILDREN OF MIGRATORY FARM WORKERS.** In any school district in which there is located any farm labor camp and the children of migratory farm workers housed therein attend the schools of the district, the board of trustees may make a levy not exceeding one-tenth of one percent (.1%) of the market value for assessment purposes on all taxable property within the district, in addition to any other levies authorized by law, for the cost of educating such children.

Whenever the aggregate of the levy herein authorized and other levies made for maintenance and operation of the district shall exceed six-tenths of one percent (.6%) of the market value for assessment purposes on all taxable property within the district, the levy authorized by this section must be approved by the school district electors at a tax levy election held for that purpose. Notice of such election shall be given, the election shall be conducted, and the returns thereof made, as provided in title 34, Idaho Code; and the question shall be approved only if a majority of the qualified electors voting at such election vote in favor thereof. (History: S.L. 1963, Ch. 13; S.L. 1995, Ch. 82; S.L. 2009, Ch. 341)

**33-804. SCHOOL PLANT FACILITIES RESERVE FUND LEVY.** In any school district in which a school plant facilities reserve fund has been created, either by resolution of the board of trustees or by apportionment to new districts according to the provisions of section 33-901, Idaho Code, to provide funds therefor the board of trustees shall submit to the qualified school electors of the district the question of a levy not to exceed four-tenths of one percent (.4%) of market value for assessment purposes in each year, as such valuation existed on December 31 of the previous year, for a period not to exceed ten (10) years.

The question of a levy to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be collected each year during the period of years in each of which the collection is proposed to be made, the percentage of votes in favor of the proposal which are needed to approve the proposed dollar amount to be collected, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be held subject to the provisions of section 34-106, Idaho Code, and conducted and the returns canvassed as provided in title 34, Idaho Code; and the dollar amount to be collected shall be approved only if:

1. Fifty-five percent (55%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of less than two-tenths of one percent (.2%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election;

2. Sixty percent (60%) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of two-tenths of one percent (.2%) or more and less than three-tenths of one percent (.3%) of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election; or

3. Two-thirds (2/3) of the electors voting in such election are in favor thereof if the levy will result in a total levy for school plant facilities and bonded indebtedness of three-tenths of one percent (.3%) or more of market value for assessment purposes as such valuation existed on December 31 of the year immediately preceding the election.

If the question be approved, the board of trustees may make a levy, not to exceed four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, in each year for which the collection was approved, sufficient to collect the dollar amount approved and may again submit the question at the expiration of the period of such levy, for the

## ***Education Elections Selected Code Sections***

dollar amount to be collected during each year, and the number of years which the board may at that time determine. Or, during the period approved at any such election, if such period be less than ten (10) years or the levy be less than four-tenths of one percent (.4%) of market value for assessment purposes as such valuation existed on December 31 of the previous year, the board of trustees may submit to the qualified school electors in the same manner as before, the question whether the number of years, or the levy, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

Any bonded indebtedness incurred in accordance with the provisions of section 33-1103, Idaho Code, subsequent to the approval of a plant facilities reserve fund levy shall not affect the terms of that levy for any time during which such levy is in effect.

4. In any fiscal year in which the state department of education certifies that the statewide per support unit funding for salary-based apportionment and discretionary funds has decreased, in the aggregate, from the prior fiscal year, the board of trustees of any school district with a previously approved plant facilities levy may submit to the qualified electors of the school district the question of converting a previously approved plant facilities levy to a supplemental levy, subject to the following:

(a) The term of the supplemental levy shall not exceed the lesser of two (2) years or the remaining term on the previously approved plant facilities levy; and

(b) The first tax year of conversion shall be the one in which the revenues collected will accrue to the fiscal year in which the state department of education certifies that the condition stated in subsection 4. of this section exists; and

(c) Up to one hundred percent (100%) of the previously approved plant facilities levy amount may be converted; and

(d) Conversion of a plant facilities levy to a supplemental levy shall not affect any other supplemental levy; and

(e) The question to be submitted to the electors of the district and the notice of such election shall state the dollar amount proposed to be converted each year, the number of years to be converted, the percentage of the plant facilities levy that is proposed for conversion, and the purposes for which such funds shall be used; and

(f) Prior to January 1, 2011, the election notice shall be given, the election shall be conducted and the returns canvassed as provided in chapter 4, title 33, Idaho Code. On and after January 1, 2011, the election notice shall be given, the election shall be held subject to the provisions of section 34-106, Idaho Code, and conducted and the returns canvassed as provided in title 34, Idaho Code; and

(g) The dollar amount to be converted and collected shall be approved only if a majority of the electors voting in the election are in favor; and

(h) Upon expiration of the term of conversion, the supplemental levy shall revert to the previously approved plant facilities levy for any approved years remaining on the balance of its term; and

(i) Any years in which a previously approved plant facilities levy is converted to a supplemental levy pursuant to this subsection shall count against the years for which the plant facilities levy was approved; and

(j) If a majority of the electors voting in the election fail to vote in favor, the previously approved plant facilities levy shall not be affected. (History S.L. 1963, Ch. 13; S.L. 1970, Ch. 115; S.L. 1975, Ch. 220; S.L. 1979, Ch. 254; S.L. 1992, Ch. 276; S.L. 1994, Ch. 299; S.L. 1996, Ch. 322; S.L. 2009, Ch. 341; S.L. 2010, Ch. 326, S.L. 2011, Ch. 299)

**Education Elections  
Selected Code Sections**

Title 33 - Education  
Chapter 11 - School Bonds

**33-1103. DEFINITIONS — BONDS — LIMITATION ON AMOUNT — ELECTIONS TO AUTHORIZE ISSUANCE.** (1) For the purposes of this chapter the following definitions shall have the meanings specified: “Market value for assessment purposes” means the amount of the last preceding equalized assessment of all taxable property and all property exempt from taxation pursuant to section 63-602G, Idaho Code, within the school district on the tax rolls completed and available as of the date of approval by the electorate in the school bond election. “Aggregate outstanding indebtedness” means the total sum of unredeemed outstanding bonds, minus all moneys in the bond interest and redemption fund or funds accumulated for the redemption of such outstanding bonds, and minus the sum of all taxes levied for the redemption of such bonds, with the exception of that portion of such tax levies required for the payment of interest on bonds, which taxes remain uncollected. “Issue,” “issued,” or “issuance” means a formal delivery of bonds to any purchaser thereof and payment therefor to the school district.

(2) The board of trustees of any school district, upon approval of a majority thereof, may submit to the qualified school district electors of the district the question as to whether the board shall be empowered to issue negotiable coupon bonds of the district in an amount and for a period of time to be named in the notice of election.

(3) An elementary school district which employs not less than six (6) teachers, or a school district operating an elementary school or schools, and a secondary school or schools, or issuing bonds for the acquisition of a secondary school or schools, may issue bonds in an amount not to exceed five percent (5%) of the market value for assessment purposes thereof, less the aggregate outstanding indebtedness; and no other school district shall issue bonds in an amount to exceed at any time two percent (2%) of the market value for assessment purposes thereof less the aggregate outstanding indebtedness. The market value for assessment purposes, the aggregate outstanding indebtedness and the unexhausted debt-incurring power of the district shall each be determined as of the date of approval by the electors in the school bond election.

(4) Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed, and the qualifications of electors voting or offering to vote shall be, as provided in title 34, Idaho Code.

(5) The question shall be approved only if the percentage of votes cast at such election were cast in favor thereof is that which now, or may hereafter be, set by the constitution of the state of Idaho. Upon such approval of the issuance of bonds, the same may be issued at any time after the date of such election. (History: S.L. 1963, Ch. 13; S.L. 1973, Ch. 282; S.L. 1974, Ch. 4; S.L. 1975, Ch. 88; S.L. 1979, Ch. 114; S.L. 1979, Ch. 254; S.L. 1980, Ch. 205; S.L. 1980, Ch. 350; S.L. 1996, Ch. 322; S.L. 2001, Ch. 336; S.L. 2007, Ch. 358; S.L. 2008, Ch. 400; S.L. 2009, Ch. 341; S.L. 2014, Ch. 357)

Title 33 - Education  
Chapter 15 - Transportation of Pupils

**33-1510. CONTRACTS FOR TRANSPORTATION SERVICE.** (1) All contracts entered into by boards of trustees for the transportation of pupils shall be in writing using the current pupil transportation model contract developed by the state department of education. School districts may attach to the model contract addenda to meet local requirements. School districts shall submit to the state superintendent of public instruction a copy of the pupil transportation contract prior to both parties signing it, for a review of legal requirements and appropriate costs and for final approval. The state superintendent of public instruction shall respond to the school district within twenty-one (21) calendar days of the postmarked receipt of the contract by notifying the school district of contract approval or of recommended or required changes. A

***Education Elections  
Selected Code Sections***

school district may appeal to the state board of education any changes the state superintendent requires, in which case the state board may, upon review, approve the contract without such changes.

(2) No contract shall be executed covering a period of time exceeding five (5) years. School districts shall advertise, bid and contract for all bus transportation service routes at a single time, and contract with the lowest responsible bidder or bidders meeting the specifications; provided that, one (1) time only, a school district may renew a contract with the current contractor if the board of trustees, after renegotiation with the contractor, determines that the terms are satisfactory to the district. The board of trustees may renew the contract for a term not to exceed five (5) years. Renewal of any contract pursuant to this section shall not be granted unless the provisions of this section were included, in a substantially conforming summary, within the bidding notice, published pursuant to section 33-601, Idaho Code, of the contract.

(3) Before entering into such contracts, the board of trustees shall invite bids by twice giving notice as provided in section 33-402[(2)](7), Idaho Code, and shall award the contract to the lowest responsible bidder. (History: S.L. 1963, Ch. 13; S.L. 1987, Ch. 9; S.L. 1989, Ch. 3; S.L. 1997, Ch. 40; S.L. 1997, Ch. 176; S.L. 2004, Ch. 136; S.L. 2004, Ch. 254; S.L. 2009, Ch. 171; S.L. 2009, Ch. 341; S.L. 2011, Ch. 151)



## **Fire Protection District Elections Frequently Asked Questions**

### **When are fire protection district elections held?**

Elections of commissioners of fire protection districts are held on the first Tuesday following the first Monday in November of each odd-numbered year. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (31-1410, 34-106, Idaho Code)

### **How many commissioners are elected in a fire protection district and what are their terms of office?**

Each fire protection district is divided into three (3) subdivisions, as nearly equal in population, area and mileage as practicable known as subdistricts 1, 2 and 3. A commissioner is elected from each subdistrict. Not more than one commissioner can be an elector from the same subdistrict. Each commissioner is elected on a district wide basis and serves a term of four (4) years. The terms of office are staggered. For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year.

After creation of a fire protection district and appointment of its first board of commissioners, the board can vote to increase the size of the board to five (5) members. If it is elected to increase the size of the board, then the existing board also subdivides the district into five (5) subdistricts as nearly equal in population, area and mileage as practicable, known as subdistricts 1, 2, 3, 4 and 5.

Initial commissioner terms vary from 1 to 4 years after expansion. Thereafter, the term of all commissioners shall be 4 years. (31-1408, 31-1409, 31-1410, 31-1410A, Idaho Code)

### **How do I know if I'm eligible to vote in a fire protection district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The county clerk's election department or the clerk of the district can tell you if you are eligible to vote in district elections. (34-104, 34-1402, Idaho Code)

### **What are the requirements if I want to run for fire protection district commissioner?**

Commissioner candidates must be electors residing within the fire protection district for at least one (1) year immediately preceding their elections.

Candidates for election as a fire protection district commissioner file nominating petitions which include the name of the candidate, the subdistrict that the candidate is running in and signatures of at least five (5) electors from the subdistrict.

The Declaration of Candidacy and Petition of Candidacy forms are available from and are filed with the clerk of the district. However, the forms are also available from the County Clerk's Election Office.

The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made in odd numbered years. The clerk of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. (31-1409, 34-1404, Idaho Code; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

County clerks administer fire protection district elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code.

The county clerk performs all necessary duties of the election official of a fire protection district including, but not limited to, publishing the notice of the filing deadline and the notice of the election, and preparation of the election calendar. (31-1410, 34-1401, Idaho Code)

## **Fire Protection District Elections Frequently Asked Questions**

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the clerk of the district not less than forty-five (45) days before the election. The Declaration of Intent forms can be obtained from the clerk of the district or County Clerk's Election Office. *(34-1407, Idaho Code)*

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, no election will be held for that subdistrict. The board of the fire protection district declares the candidate elected and the secretary or clerk of the district immediately makes and delivers a certificate of election to the candidate. *(31-1410, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the fire protection district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can fire protection district commissioners be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring in the office of the fire protection commissioner, other than by the expiration of the term of office, is filled by the fire protection board, within sixty (60) days of learning of the vacancy. When a vacancy occurs, the board shall direct the secretary to cause a notice of the vacancy to be published in at least one (1) issue of a newspaper of general circulation within the district. The notice must include the date and time of the meeting when the board will vote to fill the vacancy and the deadline for the qualified elector residents interested in being appointed to the position to submit a written request for appointment to the board. Appointee must be an elector and a resident within the district one (1) year prior to their appointment. Should the board fail to agree on an individual to fill the vacancy, all the interested persons who received the highest and equal number votes shall have their names placed in a container. The county commissioner with the most continuous length of service shall draw one (1) name from the container. The person whose name is drawn shall then be appointed to fill the vacancy. *(34-104, 31-1408, Idaho Code)*

**Fire Protection District Elections  
Selected Code Sections**

- 31-1402 CREATION AND ORGANIZATION OF DISTRICT
- 31-1403 PETITION
- 31-1404 NOTICE OF HEARING
- 31-1405 NOTICE OF ELECTION
- 31-1406 ELECTION — QUALIFICATION OF ELECTORS — CANVASS
- 31-1407 CANVASS BY BOARD OF COMMISSIONERS — VALIDITY OF ORGANIZATION
- 31-1408 FIRE PROTECTION BOARD — APPOINTMENT OF COMMISSIONERS — OATH
- 31-1409 RESIDENCE QUALIFICATIONS OF COMMISSIONERS — TERM OF OFFICE — VACANCIES
- 31-1410 ELECTION OF COMMISSIONERS
- 31-1410A DECISION TO INCREASE THE SIZE OF THE BOARD
- 31-1411 ANNEXATION OF TERRITORY IN SAME COUNTY — PETITION — HEARING — ORDER — CERTIFICATION TO COUNTY COMMISSIONERS — ALTERNATE PROCEDURE — ELECTION — PETITION TO DE ANNEX PROPERTY FROM EXISTING DISTRICT AND ANNEX INTO ANOTHER DISTRICT
- 31-1412 ANNEXATION OF TERRITORY IN ADJOINING COUNTY
- 31-1413 CONSOLIDATION OF DISTRICTS — HEARING — PROTEST — ELECTION
- 31-1414 ELECTION FOR THE CONSOLIDATION OF DISTRICTS
- 31-1423 LEVY—RECOMMENDED LEVY—ELECTION
- 31-1434 ANY DISSOLUTION

**31-1402. CREATION AND ORGANIZATION OF DISTRICT.** (1) Whenever twenty-five (25) or more of the holders of title, or evidence of title, to lands aggregating not less than one thousand (1,000) acres of contiguous territory, or consisting of contiguous territory of less extent but having market value for assessment purposes of at least five hundred thousand dollars (\$500,000) at the last preceding county assessment, desire to provide for the organization of the same as a fire protection district, none of their lands being included within the boundaries of an already created and organized fire protection district under the terms of this chapter, a district may be created and organized as provided in this chapter.

(2) All creations and organizations of fire protection districts and annexations to existing fire protection districts during the twelve (12) month period preceding the effective date of this act shall be deemed to be in full compliance with all applicable laws regardless of prior interpretations. (History: S.L. 1943, Ch. 161; S.L. 1980, Ch. 350; S.L. 1984, Ch. 202; S.L. 1994, Ch. 360)

**31-1403. PETITION.** (1) A petition shall first be presented to the board of county commissioners and filed with the clerk of the board of commissioners of each county in which the proposed fire protection district is to be situated, signed by the number of holders of title, or evidence of title specified in section 31-1402, Idaho Code, which petition shall plainly and clearly designate the boundaries of the proposed fire protection district, and shall state the name of the proposed district, and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith shall, at all proper hours, be open to public inspection in the office of said clerk of the board of commissioners between the date of their said filing and the date of the election. The petition may be in one (1) paper or in several papers.

(2) Whenever a petition shall be filed, prior to the publication of notice of hearing pursuant to section 31-1404, Idaho Code, the petitioners shall deposit with the board of county commissioners a sum sufficient to defray the costs of publishing and election as provided by this chapter. In the event a fire protection district is organized, the petitioners shall be reimbursed the amount of their deposit from the first tax moneys collected by the district as provided by this chapter. The amount required to be paid under this subsection shall be determined by the board of county commissioners. (History: S.L. 1943, Ch. 161; S.L. 1986, Ch. 137; S.L. 2006, Ch. 318)

## **Fire Protection District Elections Selected Code Sections**

**31-1404. NOTICE OF HEARING.** When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition, which time shall not be less than four (4) nor more than six (6) weeks, from the date of the presentation and filing of such petition. A notice of the time of such hearing shall be published by said board, once each week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within each county in which said district is to be situated. Said notice shall state that a fire protection district is proposed to be organized, giving the proposed boundaries thereof, and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any testimony pertaining to the organization of such district, the proposed boundaries thereof or the including or excluding of any real property therein or therefrom. After hearing and considering any and all testimony, if any such be interposed, the county commissioners shall thereupon make an order thereon either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided by this chapter, and a map showing the boundaries of such proposed district as finally fixed and determined by the board of county commissioners shall be prepared and filed in the office of the clerk of said board.

If the district is to be situated in two (2) or more counties, each board of county commissioners shall coordinate the hearing date and the publications of notice so that only one (1) hearing need be held. Unless otherwise agreed to by each board of county commissioners involved, the hearing shall be held in the county with the largest area to be included within the district, and the boards of county commissioners are hereby specifically authorized to act in a joint manner for such purposes. (History: S.L. 1943, Ch. 161; S.L. 1986, Ch. 137; S.L. 1996, Ch. 360)

**31-1405. NOTICE OF ELECTION.** After the county commissioners have made their order finally fixing and determining the boundaries of the proposed district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed fire protection district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed fire protection district, and shall state the name of the proposed district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published first not less than fifteen (15) days prior to the election, and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words "... fire protection district, yes," or "... fire protection district, no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district.

If the district is to be situated in two (2) or more counties, the boards of county commissioners shall provide that the election be held on the same day in each county. (History: S.L. 1943, Ch. 161; S.L. 1986, Ch. 137; S.L. 1995, Ch. 118; S.L. 2006, Ch. 318)

**31-1406. ELECTION — QUALIFICATION OF ELECTORS — CANVASS.** Such election shall be conducted in accordance with title 34, Idaho Code. The board of county commissioners shall establish as many election precincts within such proposed fire protection district as may be necessary, and define the boundaries thereof. The county clerk shall appoint judges of election who shall perform the duties as judges of election under title 34, Idaho Code; and the result of such election shall be certified, and

## **Fire Protection District Elections Selected Code Sections**

canvassed and declared by the board of county commissioners. (History: S.L. 1943, Ch. 161; S.L. 1982, Ch. 254; S.L. 1986, Ch. 137; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

### **31-1407. CANVASS BY BOARD OF COMMISSIONERS — VALIDITY OF ORGANIZATION.**

Immediately after any election for voting upon the organization of a fire protection district, the judges of said election shall forward the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall meet within ten (10) days after said returns are received and shall proceed to canvass the votes cast at such election, and if, upon canvass, it shall appear that one-half (1/2) or more of said votes are “.... fire protection district, no,” then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void. If, however, it shall appear upon such canvass, that more than one-half (1/2) of the votes cast are “.... fire protection district, yes,” the said board shall, by order entered on its minutes, declare such territory duly organized as a fire protection district under the name designated in the petition. After the election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number of qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of such organization after six (6) months from and after the making and entering of the order provided for in this section. Such board shall cause one (1) copy of such order, duly certified, to be filed for record in the office of the county recorder of the county in which said district is situated and shall transmit to the governor one (1) certified copy thereof.

From and after the date of such filing of said order of the board of county commissioners declaring such territory duly organized as a fire protection district, the organization of such district shall be complete.

If the district is to be situated in two (2) or more counties, the boards of county commissioners shall coordinate the canvass of the votes cast and make one (1) joint announcement. If a majority of the votes cast in any county are against the formation of the district, such rejection shall void the organization of the district in all counties. (History: S.L. 1943, Ch. 161; S.L. 1986, Ch. 137)

### **31-1408. FIRE PROTECTION BOARD — APPOINTMENT OF COMMISSIONERS — OATH.**

(1) There shall be three (3) fire protection commissioners in each district, who shall constitute the fire protection board. The first fire protection commissioners of such fire protection district shall be appointed by the board of county commissioners. If the district is to be situated in two (2) or more counties, the boards of county commissioners from those counties shall coordinate a joint public meeting whereby the appointment shall be made by a majority of all county commissioners present at the joint public meeting. If the county commissioners cannot agree on the appointment of a commissioner, all the interested persons who received the highest and equal number of votes shall have their name placed in a container. The county commissioner with the most continuous length of service shall draw one (1) name from the container. The person whose name is drawn shall then be appointed to fill the vacancy. The certificate of such appointment shall be made in triplicate: one (1) certificate shall be filed in the office of the county recorder of the county, one (1) with the clerk of the board of county commissioners, and one (1) with the assessor and tax collector of the county. Every fire protection commissioner and appointed officer shall take and subscribe the official oath, which oath shall be filed in the office of the board of fire protection commissioners. If thirty-three percent (33%) of the area or population in the fire protection district is situated in two (2) or more counties, not more than two (2) of the appointed fire protection district commissioners shall be from the same county.

(2) The oath of office of fire protection commissioners and appointed officers shall be taken before the secretary or the president of the board of the fire protection district at the first regularly scheduled board meeting in January succeeding each general election. Provided however, in the event, for any reason, of an inability to appear for the taking of the oath, a duly elected fire protection commissioner may be

## **Fire Protection District Elections Selected Code Sections**

sworn in and may subscribe to the oath wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths as prescribed in section 51-113, Idaho Code, and may take and subscribe the oath of office as provided for in section 59-401, Idaho Code, and the oath of office shall have the same force and effect as though it were taken before the secretary or the president of the fire protection district pursuant to this subsection. (History: S.L. 1943, Ch. 161; S.L. 1986, Ch. 137; S.L. 1998, Ch. 190; S.L. 2006, Ch. 318; S.L. 2010, Ch. 337; S.L. 2016, Ch. 89; S.L. 2017, Ch. 128 and 192)

**31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS — TERM OF OFFICE — VACANCIES.** (1) At the meeting of the board of county commissioners at which the fire protection district is declared organized, as provided by section 31-1407, Idaho Code, the county commissioners shall divide the fire protection district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Not more than one (1) of the fire protection district commissioners shall be a resident of the same fire protection subdistrict, except that any commissioner appointed by the board of county commissioners under section 31-1408, Idaho Code, shall not be disqualified from the completion of the initial term for which the commissioner was appointed because of the subdistrict in which the commissioner resides. The first commissioners appointed by the board of county commissioners shall serve until the next fire protection district election, at which time their successors shall be elected. The term of office for fire protection commissioners shall commence on the second Monday of January succeeding each general election. Commissioners appointed or elected must be electors residing within the fire protection district for at least one (1) year immediately preceding their appointment or election.

(2) Any fire protection commissioner vacancy occurring, other than by the expiration of the term of office, shall be filled by the fire protection board. If a duly elected or appointed fire protection commissioner resigns, withdraws, becomes disqualified, refuses or, without first providing signed written notice of a temporary vacancy, becomes otherwise unable to perform the duties of office for longer than ninety (90) days, the board, on satisfactory proof of the vacancy, shall declare the office vacant. The board shall fill any vacancies within sixty (60) days of learning of the vacancy. When a vacancy occurs, the board shall direct the secretary to cause a notice of the vacancy to be published in at least one (1) issue of a newspaper of general circulation within the district. The notice shall include the date and time of the meeting when the board will vote to fill the vacancy, and the deadline for qualified elector residents interested in being appointed to the position to submit a written request for appointment to the board. Should the remaining members of the board fail to agree on an individual to fill the vacancy, it shall select the individual by placing the names of all interested persons who received the highest and equal number of votes in a container. The fire commissioner with the most continuous length of service shall draw one (1) name from the container. The person whose name is drawn shall then be appointed to fill the vacancy.

(3) If more than fifty percent (50%) of the elected official seats on a fire protection district board of commissioners are vacant, any remaining member of the fire protection district board of commissioners, or any elector of the fire protection district, may petition the board of county commissioners of the county or counties in which the subdistrict vacancies are situated to make such appointments as are necessary to fill the vacancies on the fire protection district board of commissioners. The vacancies shall be filled by the board or boards of county commissioners within sixty (60) days of receiving a written petition. Any fire commissioner so appointed shall serve out the remainder of the term for the commissioner last serving in the vacant seat to be filled and shall be a resident of the same fire protection commissioners subdistrict. (History: S.L. 1943, Ch.161; S.L. 1986, Ch. 137; S.L. 1996, Ch. 360; S.L. 2006, Ch. 318; S.L. 2016, Ch. 89; S.L. 2017, Ch. 128; S.L. 2018, Ch. 168)

## **Fire Protection District Elections Selected Code Sections**

**31-1410. ELECTION OF COMMISSIONERS — RESIDENT QUALIFICATIONS OF COMMISSIONERS — REVISING SUBDISTRICTS — TERM OF OFFICE.** (1) On the first Tuesday following the first Monday of November, of the next odd-numbered year, following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Not more than one (1) commissioner shall be a resident of the same fire protection commissioner subdistrict. Every odd-numbered year thereafter, an election shall be held for the election of fire protection district commissioners as described in this section. For commissioners whose term in office expires in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. The county clerk shall have power to make such regulations for the conduct of such election as are consistent with the statutory provisions of chapter 14, title 34, Idaho Code.

(2) The board of fire protection district commissioners may revise subdistricts when they deem it necessary due to significant shifts in population. The board of fire protection district commissioners shall revise subdistricts upon any annexation of territory into the district in accordance with sections 31-1410A, 31-1410B and 31-1412(6), Idaho Code, and, in any case, within six (6) months following the end of each decennial United States census reporting year so as to equalize the population, area and mileage between the subdistricts as nearly as practicable. Provided however, of the commissioners comprising the board, not more than one (1) commissioner shall be a resident of the same fire protection commissioners subdistrict. The revision of subdistricts shall not disqualify any elected commissioner from the completion of the term for which he or she has been duly elected. Notice of revised fire protection commissioner subdistricts shall be provided to the county clerk of the county or counties in which the changes occur by means of a resolution that includes a map depicting the revised subdistrict boundaries.

(3) At the first election following organization of a fire protection district, the commissioner from fire protection subdistrict one shall be elected to a term of two (2) years and the commissioners from subdistricts two and three shall be elected to a term of four (4) years; thereafter, the term of office of all commissioners shall be four (4) years. Such elections and all other elections held under this law shall be held in conformity with the general laws of the state including chapter 14, title 34, Idaho Code.

(4) A fire protection district whose terms and elections were established by prior law shall convert to the election of commissioners as provided in this section.

(5) In any election for fire protection district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of the fire protection district shall declare such candidate elected as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

(6) The results of any election for fire protection district commissioner shall be certified by the county clerk of the county or counties of the district and the results reported to the fire protection district. (History: S.L. 1943, Ch. 161; S.L. 1951, Ch. 135; S.L. 1982, Ch. 361; S.L. 1995, Ch. 118; S.L. 1998, Ch. 190; S.L. 2000, Ch. 336; S.L. 2003, Ch. 90; S.L. 2006, Ch. 318; S.L. 2009, Ch. 341; S.L. 2010, Ch. 185; S.L. 2016, Ch. 89)

**31-1410A. DECISION TO INCREASE THE SIZE OF THE BOARD.** Subsequent to the creation of a fire protection district and the appointment of the first board of fire protection commissioners, the fire protection board may, by a majority vote of all of the fire protection district board members elect to increase the size of the board to five (5) members.

If the board of fire protection commissioners elects to expand the board to five (5) members, the existing board members shall subdivide the district into five (5) subdivisions as nearly equal in population, area and mileage as practicable to be known as subdistricts one, two, three, four and five.

At the first election following the decision of the board of fire protection commissioners to expand the board from three (3) to five (5) members, five (5) commissioners shall be elected. The commissioners

**Fire Protection District Elections  
Selected Code Sections**

from fire protection subdistricts one and two shall be elected to a term of two (2) years, the commissioners from subdistricts three, four and five shall be elected to a term of four (4) years. Thereafter, the term of all commissioners shall be four (4) years.

A fire district which, prior to the effective date of this section, had elected to expand a board from three (3) to five (5) members shall, prior to the next election of the district, adopt a transition schedule as nearly reflecting the schedule provided in this section as possible[.] For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. (History: S.L. 1998, Ch. 190; S.L. 2001, Ch. 109; S.L. 2006, Ch. 318; S.L. 2011, Ch.11)

**31-1410B. DECISION TO DECREASE THE SIZE OF THE BOARD.** (1) Any fire protection board consisting of five (5) members may, by a four-fifths (4/5) majority vote of all of the board members, elect to decrease the size of the board to three (3) members.

(2) If the board of fire protection commissioners elects to reduce the board to three (3) members, the existing board members shall subdivide the district into three (3) subdivisions as nearly equal in population, are and mileage as practicable to be known as subdistricts one, two and three. Notice of revised fire protection commissioner subdistricts shall be provided to the county clerk of the county or counties in which the changes occur by means of a resolution that includes a map depicting the revised subdistrict boundaries.

(3) At the first election following the decision of the board of fire protection commissioners to reduce the board from five (5) to three (3) members, three (3) commissioners shall be elected. The commissioner from fire protection subdistrict one shall be elected to a term of two (2) years and the commissioners from subdistricts two and three shall be elected to a term of four (4) years. Thereafter, the term of all commissioners shall be four (4) years.

(4) For commissioners whose office expires in any even-numbered year, such commissioners shall remain in office until the next election in an odd numbered year. (History: S.L. 2016, Ch. 89)

**31-1411. ANNEXATION OF TERRITORY IN SAME COUNTY — PETITION — HEARING — ORDER — CERTIFICATION TO COUNTY COMMISSIONERS — ALTERNATE PROCEDURE — ELECTION — PETITION TO DE ANNEX PROPERTY FROM EXISTING DISTRICT AND ANNEX INTO ANOTHER DISTRICT.** After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district. Territory that is not contained in an existing fire district, and is not immediately adjoining the boundaries of the fire district into which annexation is sought, may be annexed into the district provided the territory consists of not less than forty (40) contiguous acres. At least seventy-five percent (75%) or more of the owners or contract purchasers of the land sought to be annexed shall petition the fire protection board and request annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, or upon the written consent of the petitioner within one hundred eighty (180) days, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.



## **Fire Protection District Elections Selected Code Sections**

In the event that more than twenty-five percent (25%) of the owners or contract purchasers of the land sought to be annexed do not join in said petition, and the board determines by resolution entered on the minutes of the board, that the annexation would be in the best interests of the district and that an election on the issue should be held, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken at an election held as provided in section 31-1405, Idaho Code. The same procedure shall be adopted as provided in sections 31-1402 through 31-1406, Idaho Code.

If owners or contract purchasers of territory located within an existing fire protection district seek to petition to be annexed into another fire protection district, they must demonstrate that they are likely to receive an improved response to requests for services from the other fire protection district and obtain written approval of the board of the fire protection district within which the territory is already located. The written approval must be attached to their petition to annex. The procedure for the annexation petition shall be the same as otherwise provided in this section. (History: S.L. 1943, Ch. 161; S.L. 1959, Ch. 139; S.L. 1984, Ch. 202; S.L. 1994, Ch. 360; S.L. 1995, Ch. 84; S.L. 1995, Ch. 118; S.L. 1996, Ch. 360; S.L. 2006, Ch. 318)

**31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY.** After the organization of a fire protection district, additional territory, contiguous or noncontiguous thereto and located wholly within an adjoining county, may be added to the district and become a part thereof as hereinafter provided in this section. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The proceedings for annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

(1) Such proceeding may be initiated by:

(a) Two (2) or more of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres; or

(b) One hundred percent (100%) of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres.

(2) A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the fire protection board of the fire protection district into which petitioners seek to be annexed. The petition shall accurately describe the boundaries of the territory and name and describe the fire protection district to which annexation is sought. The petition shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. An election is not required pursuant to subsection (5) of this section when the petition includes a certification as to the following: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property proposed to be annexed. The fire protection board shall follow the notice and public hearing requirements contained in section 31-1411, Idaho Code, and if it approves of the annexation proposal, it will issue a written resolution consenting to the proposed annexation. If the fire protection board issues such a resolution, the petitioners shall proceed in accordance with the steps outlined in this section.

(3) A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of the territory, and name and describe the fire protection district to which annexation is sought, shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. An election is not required pursuant to subsection (5) of this section when the petition includes a certification as to the following: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial

## **Fire Protection District Elections Selected Code Sections**

petition requesting annexation; and (b) that there is no electorate present in the property proposed to be annexed. The petition must be accompanied by a certified copy of the resolution of the board of fire protection commissioners consenting to the annexation.

(4) The notice of hearing on the petition shall state that certain territory described in the petition, is proposed to be annexed to a fire protection district named in the petition and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections at the time and place specified. The order entered by the local board of county commissioners on the petition shall, if the petition be granted, fix the boundaries of the annexed territory and direct that a map of it be prepared under the direction of the clerk of the board, and certified copies of the order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

(5) An election shall be conducted by the county clerk or elections office in the county where the land sought to be annexed is situated, subject to the provisions of section 34-106, Idaho Code, in the territory proposed to be annexed for the purpose of voting upon the annexation and the notice shall accurately describe the boundaries of the territory proposed to be annexed, shall state the name of the district to which annexation is sought, and that a map showing the boundaries of the district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X). An election pursuant to the provisions of this subsection shall accomplish no purpose and, therefore, shall not be required if the following conditions are certified in the petition(s) submitted in accordance with subsections (2) and (3) of this section: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property sought to be annexed.

(6) The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from the canvass that more than one-half (1/2) of the voters are in favor of the annexation, the board shall, by order entered on its minutes, declare the territory a part of the fire protection district to which annexation is sought, and a certified copy of the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which the original district is situated. A certified copy of the order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. At the first meeting of the board of fire protection commissioners following the annexation of property from another county, the board shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The remaining commissioners on the board shall appoint, as necessary, persons to fill vacancies created as a result of annexation pursuant to the provisions of section 31-1409, Idaho Code. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to the levy. (History: S.L. 1943, Ch. 161; S.L. 1975, Ch. 219; S.L. 1980, Ch. 350; S.L. 1984, Ch. 117; S.L. 1984, Ch. 202; S.L. 1994, Ch. 360; S.L.

## **Fire Protection District Elections Selected Code Sections**

1995, Ch. 118; S.L. 2006, Ch. 318; S.L. 2010, Ch. 176)

**31-1413. CONSOLIDATION OF DISTRICTS — HEARING — PROTEST — ELECTION.** Except as provided for in section 31-1423 (2) (b), Idaho Code, any fire protection district may consolidate with one (1) or more existing fire protection districts subject to the following procedure, or pursuant to an election for consolidation as provided in section 31-1414, Idaho Code, and with the following effects:

(1) If, in the opinion of the board of any fire protection district, it would be to the advantage of said district to consolidate with one (1) or more other existing fire protection districts, the said board shall cause to be prepared an agreement for consolidation which shall among other things provide:

(a) The name of the proposed consolidated fire protection district.

(b) That all property of the districts to be consolidated shall become the property of the consolidated district.

(c) That all debts of the districts to be consolidated shall become the debts of the consolidated district.

(d) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 31-1410, Idaho Code, at which three (3) commissioners shall be elected, unless the agreement of consolidation establishes a five (5) member board, in which case five (5) commissioners shall be elected. If the board consists of three (3) members, commissioners from fire protection subdistricts one and two shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, the commissioners from fire protection subdistricts one, three and five shall be elected for terms of four (4) years, and the commissioners from fire protection subdistricts two and four shall be elected for an initial term of two (2) years. Thereafter, the term of all commissioners shall be four (4) years.

(e) That the employees of the consolidated fire protection district shall be selected from the employees of the fire protection districts being consolidated, which employees shall retain the seniority rights under their existing employment contracts.

(2) After approval of the agreement of consolidation by each of the fire protection district boards involved, the boards of commissioners of each fire protection district shall hold a hearing not less than ten (10) or more than thirty (30) days thereafter and shall cause notice of the hearing, designating the time and place to be published in at least one (1) issue of a newspaper of general circulation within the district not less than five (5) days prior to the hearing. Any person supporting or objecting to the petition shall be heard at the hearing, if in attendance, and at the close of the hearing the board shall approve or reject the agreement of consolidation. If each board approves the agreement of consolidation, the agreement shall become effective and the consolidation of the district complete thirty (30) days after the approval unless within the thirty (30) days a petition signed by twenty-five percent (25%) of the qualified electors of one (1) of the fire protection districts objecting to the consolidation be filed with the secretary of the district. In the event of an objection, an election shall be held as provided in section 31-1405, Idaho Code, except that the question shall be "consolidation of .... fire protection district, yes," or "consolidation of .... fire protection district, no," or words equivalent thereto. If more than one-half (1/2) of the votes cast are yes, the agreement shall become effective. If more than one-half (1/2) of the votes cast are no, the agreement shall be void and of no effect; and no new consolidation shall be proposed for at least six (6) months following the date of the consolidation election.

(3) Upon the agreement of consolidation becoming effective, the board of the consolidated fire protection district shall file a certified copy of the agreement with the county recorder of each county in which such district is situated and shall comply with the provisions of section 63-215, Idaho Code. The

## **Fire Protection District Elections Selected Code Sections**

consolidated district shall thereafter have the same rights and obligations as any other fire protection district organized under the statutes of this state.

(4) An agreement of consolidation shall not take effect unless the provisions of section 31-1423 (2) (b), Idaho Code, are complied with. (History: S.L. 1967, Ch. 95; S.L. 1996, Ch. 322; S.L. 1997, Ch. 372; S.L. 1998, Ch. 190; S.L. 2006, Ch. 318; S.L. 2013, Ch. 185)

**31-1414. ELECTION FOR THE CONSOLIDATION OF DISTRICTS.** (1) Any two (2) or more fire districts may, in the discretion of the fire district commissioners, or shall, upon a petition signed by ten percent (10%) or more of the electors in the last general election residing in each of the fire protection districts proposed for consolidation, conduct an election in the manner provided in section 31-1405, Idaho Code, at which the following question shall be submitted to the electorate: "Shall ..... fire protection districts be consolidated?" or words equivalent thereto. At least one (1) public hearing shall be held by the boards of fire district commissioners prior to the election. If a majority of the votes cast in each district proposed for consolidation are in favor of consolidation, the districts shall be deemed consolidated and an agreement of consolidation in conformity with the provisions of section 31-1413, Idaho Code, shall be entered into by the fire protection district boards involved, except that an agreement of consolidation entered into pursuant to an election as provided in this section shall not thereafter be subject to an election upon objection as provided in subsection (2) of section 31-1413, Idaho Code.

(2) If two (2) districts are proposed for consolidation and less than a majority of the votes cast in any one (1) of the districts are in favor of the consolidation, the consolidation shall not become effective. If more than two (2) districts are proposed for consolidation, the consolidation may proceed with respect to those districts in which a majority of the votes cast are in favor of the consolidation. (History: S.L. 1997, Ch. 372; S.L. 2006, Ch. 318)

**31-1423. LEVY — RECOMMENDED LEVY — ELECTION.** (1) Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this chapter, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this chapter and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor and the county assessor certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-812, Idaho Code.

(2) (a) If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district which, in the year of the consolidation, has the higher levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts. In addition, the consolidated district shall receive the benefit of foregone increases accumulated by the former districts under section 63-802(1)(a), Idaho Code.

(b) Provided however, that if the higher levy rate provided for in subsection (2) (a) of this section exceeds the lowest levy rate of any of the districts to be consolidated by more than three percent (3%), the commissioners of the districts consolidating shall recommend, by a majority of the commissioners of each district involved, at a public hearing where a quorum of each district board is present, a levy rate that falls between the highest levy rate and the lowest levy rate. In determining such recommended levy rate, the commissioners shall recommend a levy rate that shall be sufficient to defray the cost of equipping and maintaining the new consolidated district. If such recommended levy rate exceeds by more than three percent (3%) the lowest current district levy rate of any of the districts to be

## **Fire Protection District Elections Selected Code Sections**

consolidated, an election shall be held in a manner consistent with the provisions of section 31-1414, Idaho Code. In such election, the electors residing in the fire protection districts seeking to consolidate shall vote to approve or disapprove the recommended levy rate and the proposed consolidation of districts. The question put to the electors shall be the same or similar to the question provided for in section 31-1414, Idaho Code, except that the question shall include, in addition to the language described in section 31-1414, Idaho Code, a reference to the recommended levy rate provided for in this section and a reference to the percentage change of such recommended levy rate from the levy rate in existence in each district in the immediately preceding year. (History: S.L. 1943, Ch. 161; S.L. 1947, Ch. 219; S.L. 1965, Ch. 208; S.L. 1984, Ch. 202; S.L. 1988, Ch. 316; S.L. 1996, Ch. 208; S.L. 1996, Ch. 322; S.L. 1997, Ch. 117; S.L. 1999, Ch. 288; S.L. 2002, Ch. 172; S.L. 2005, Ch. 178; S.L. 2005, Ch. 178; S.L. 2006, Ch. 318; S.L. 2011, Ch. 19; S.L. 2013, Ch. 185)

**31-1434. ANY DISSOLUTION.** Dissolution of any fire protection district organized under this chapter may be initiated by a petition signed by at least twenty-five percent (25%) of the holders of title, or evidence of title, to the real property within the fire protection district, requesting dissolution of such fire protection district, in the following manner:

The petition shall first be presented to the board of county commissioners of each county in which the fire protection district is situated, signed by the number of holders of title or evidence of title above provided, which petition shall clearly designate the boundaries of the fire protection district and shall state the name of the district and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith, shall, at proper hours, be open to public inspection in the office of the clerk of the board of county commissioners between the date of their said filing and the date of the election on the question of districts as hereafter provided. The petition may be in one (1) or in several papers. When such petition is presented to the board of county commissioners, and filed in the office of the clerk of the board, the said board shall set a time for hearing of such petition, which time shall not be less than four (4) nor more than six (6) weeks from the date of the presenting and filing of said petition. A notice of the time of such hearing shall be published by said board, once a week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within the county in which said district is situated. Said notice shall give the boundaries of the fire protection district and shall state that a petition has been filed to dissolve the same, and that on the date fixed for the hearing, any taxpayer within the district, may appear at the hearing and testify and/or present exhibits upon any issue pertaining to the proposed dissolution of the fire district, or may object to or support the proposed dissolution.

After hearing and considering any and all testimony and other evidence either made in favor of or in opposition to the dissolution of the fire district, if the board of county commissioners makes a sufficient factual finding that the majority of the residents of the fire district will receive no benefit by continuing the existence of the fire district, the county commissioners shall make an order granting the petition, with or without modification. Provided however, the board of county commissioners, after hearing and considering all testimony and other evidence either in favor of or in opposition to the dissolution of the fire district, cannot make a sufficient factual finding that the majority of the residents of the fire district will receive no benefit by continuing the existence of the fire district, the county commissioners shall make an order denying the petition. After the county commissioners have entered their order approving or denying such petition, the clerk of the board of county commissioners shall cause to be published, a notice of election to be held in such proposed fire protection district, for the purpose of determining whether or not the same shall be dissolved. Such notice shall plainly and clearly designate the boundaries of the fire protection district, its name, and further, that the election is to be held to decide the question of whether the fire protection district shall be maintained or dissolved. Such notice shall be published once in each week for three (3) successive publications prior to such election, in a newspaper published within the county aforesaid.

## ***Fire Protection District Elections Selected Code Sections***

Such notice shall require the electors to cast ballots which shall contain the words “fire protection district dissolved .... yes” or: “fire protection district dissolved .... no” or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter, unless he shall possess all the qualifications required of electors under the general laws of the state and be a resident of the district. The election qualifications of electors and canvass of the ballots shall be made in the same manner as provided for in sections 31-1406 and 31-1407, Idaho Code.

If a majority of the electors voting at such election shall vote to dissolve the fire protection district, the board of county commissioners shall, after certifying the results of such election, enter an order upon the minutes of its official proceedings dissolving said fire protection district, and such district shall thereupon be dissolved.

Provided, however, that whenever a petition requesting dissolution of a fire protection district is signed by the holders of title, or evidence of title, to all of the real property included within the fire protection district and is presented to the board of county commissioners of the county in which the fire protection district is situated, accompanied by a map clearly designating the boundaries of the district, the board of county commissioners shall set a time for hearing of such petition, which time shall not be less than four (4) nor more than six (6) weeks from the date of the presenting and filing of said petition. A notice of the time and place of such hearing shall be published by said board once a week for three (3) successive weeks previous to such hearing, in a newspaper published within the county in which the fire protection district is situated. Said notice shall give the boundaries of the fire protection district and shall state that a petition has been filed to dissolve the same, and that on the date fixed for the hearing, any resident, taxpayer, or creditor of such fire protection district may appear and offer any objection to the dissolving of the fire protection district. If at such hearing, no protests are made to the granting of the petition, the board of county commissioners shall enter an order upon the minutes of its official proceedings dissolving such fire protection district, and such district shall thereupon be dissolved. If, however, any protests from residents, taxpayers, or creditors of the district are entered at such hearing, the board of county commissioners shall, within thirty (30) days of said hearing, determine whether or not such fire protection district shall be dissolved and shall cause an order to that effect to be entered upon the minutes of its official proceedings. If the board determines that the fire protection district shall be dissolved, such dissolution shall be effective as of the date of the entry of such order upon the minutes.

The property of such district shall remain the property of the county in which such district is located and any money remaining in the fund of such district shall be expended in the maintenance and repair of the highways of such district whether such highways at the time of the dissolution, are in the incorporated territory or in unincorporated territory.

If the district is situated in two (2) or more counties, each board of county commissioners shall coordinate the hearing date and the publications of notice so that only one (1) hearing need be held. Unless otherwise agreed to by each board of county commissioners involved, the hearing shall be held at the administrative offices of the district, and the boards of county commissioners are hereby specifically authorized to act in a joint manner for such purposes. If an election is called, the boards of county commissioners shall provide that the election be held on the same day in each county, and the boards of county commissioners shall coordinate the canvass of the votes cast and make one (1) joint announcement. If a majority of votes in any county are against the dissolution of the district, such rejection shall void the dissolution of the district in all counties. (History: S.L. 1943, Ch. 161; S.L. 1945, Ch. 115; S.L. 1949, Ch. 154; S.L. 1974, Ch. 52; S.L. 1980, Ch. 350; S.L. 1986, Ch. 137; S.L. 2006, Ch. 318)

## **Highway District Elections Frequently Asked Questions**

### **When are highway district elections held?**

Elections of commissioners of highway districts are held on the third Tuesday of May in odd-numbered years. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (34-106, 40-1305, Idaho Code)

### **How many commissioners are elected in a highway district and what are their terms of office?**

Each highway district is divided into three (3) subdistricts, as nearly equal in population, area and mileage as practicable to be known as subdistricts 1, 2 and 3. A commissioner is elected from each subdistrict. Each commissioner is elected on a district wide basis and serves a term of four (4) years. The terms of office are staggered. (40-1304, 40-1305, Idaho Code)

### **How do I know if I'm eligible to vote in a highway district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The county clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. (34-104, 34-1402, Idaho Code)

### **What are the requirements if I want to run for highway district commissioner?**

Candidates must be an elector in the subdistrict for which they are seeking office, at least the age of 21 years at the time of the election and a U.S. citizen.

Candidates for election as a highway district commissioner file nominating petitions which include the name of the candidate, the subdistrict for which the nomination is made, the term for which the nomination is made and signatures of not less than five (5) electors from the candidate's specific subdistrict.

The Declaration of Candidacy and Petition of Candidacy forms are available from and are filed with the election official of the highway district. However, forms are also available from the County Clerk's Election Office.

The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The election official of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. (34-1404, 40-1304, 40-1305C, Idaho Code; see *Election Consolidation Calendar* for dates)

### **Who is responsible for administration of the election?**

County clerks administer highway district elections in accordance with the general laws of the state, including the provisions of Title 34, Chapter 14, Idaho Code. The county commissioners select polling places and the county clerk shall appoint election judges and clerks.

The county clerk performs all necessary duties of the election official of a highway district including, but not limited to, publication of the notice of the filing deadline and the notice of the election, and preparation of the election calendar. (34-1401, 40-1305A, Idaho Code)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the clerk of the district not less than forty-five (45) days before the election. Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Election Office. (34-1407, Idaho Code)

## **Highway District Elections Frequently Asked Questions**

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it is not necessary for the candidate of that subdistrict to stand for election. The board of the highway district commissioners shall declare such candidate elected as commissioner and the secretary of the highway district shall immediately make and deliver a certificate of election to the candidate signed by him and bearing the seal of the district. (34-1407, 40-1305B, Idaho Code)

### **Is absentee voting allowed?**

Yes. Any registered elector of the highway district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. (34-1002, 34-1408, Idaho Code)

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. (34-1409, Idaho Code)

### **Can highway district commissioners be recalled?**

Yes. The provisions and procedures to recall Highway District Commissioners are outlined in Title 34, Chapter 17, Idaho Code. (34-1701, Idaho Code)

### **How are vacancies filled?**

Any vacancy occurring in the office of highway commissioner, other than by expiration of the term of office, shall be filled by the remaining highway district commissioners using the criteria established in section 59-901, Idaho Code. The appointment shall be for the remainder of the term. If the remaining highway district commissioners are unable to agree on a person to fill the vacancy within thirty (30) days after the vacancy occurs, the chairman of the county commissioners of the county with the largest number of electors in the highway district becomes a member of the highway district board for the purpose of filling the vacancy only. If a majority of the highway district board so constituted is unable to agree upon a person to fill the vacancy within thirty (30) days, or if two (2) or more vacancies occur in the board of highway commissioners at one time, a special election to fill the vacancy is called and held in the same manner provided by law for the holding of elections for highway commissioners, except that the date of the election will be as soon as possible and all duties in connection with elections is performed by the county commissioners.

When there are two (2) or more vacancies on the highway district board at the same time, the chairman of the county commissioners along with the additional county commissioners that the county commission chairman appoints, and with the remaining highway district commissioner, if applicable, shall constitute a temporary board of highway district commissioners. (40-1304, Idaho Code)

### **Filling vacancies for single county-wide districts.**

Any vacancy occurring in the office of highway commissioner for a single county-wide district, other than by expiration of the term of office, shall be filled by the remaining highway district board using the criteria established in 59-901, Idaho Code, the board shall fill the vacancy within thirty (30) days for the balance of the term of the person replaced. If the majority of the remaining highway district board are unable to agree on a person to fill the vacancy within thirty (30) days after the vacancy occurs, the remaining



***Highway District Elections  
Frequently Asked Questions***

highway district board shall submit a list of three (3) nominations to the governor within five (5) days. The governor shall fill the vacancy within ten (10) days. If the remaining highway district board fails to submit a list of three (3) nominations, the governor shall have an additional ten (10) days to fill the vacancy by appointing a person having the same qualifications at the time of appointment as those provided by law for election to the office. *(40-1404B, Idaho Code)*

*This page intentionally left blank.*

**Highway District Elections**  
**Selected Code Sections**

- 40-206 PUBLICATION OF NOTICES
- 40-819 ELECTION TO INCREASE LEVY — NOTICE
- 40-1101 BONDS — FUNDING
- 40-1105 ELECTION — ISSUANCE
- 40-1106 BONDS OF COUNTY
- 40-1302 COUNTY DIVISION OR CHANGE IN BOUNDARIES — JOINT HIGHWAY DISTRICT FORMED
- 40-1303 HIGHWAY COMMISSIONERS — APPOINTMENT — OATH
- 40-1304 DIVISION OF DISTRICTS INTO SUBDISTRICTS — VACANCY IN OFFICE OF HIGHWAY COMMISSIONER
- 40-1305 ELECTION OF HIGHWAY COMMISSIONERS — TERM OF OFFICE
- 40-1305A ELECTION ADMINISTRATION
- 40-1305B BOARD OF COMMISSIONERS — ONE NOMINATION — NO ELECTION
- 40-1305C DECLARATION OF CANDIDACY — QUALIFICATIONS
- 40-1401 ELECTION TO ESTABLISH DISTRICT
- 40-1403 REJECTION OF PLAN — INTERVALS FOR NEW ELECTIONS
- 40-1404 APPOINTMENT OF FIRST HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS — SUBDISTRICTS — ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS
- 40-1404A ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS
- 40-1404B VACANCIES—FILLING A MID-TERM VACANCY
- 40-1408 EXPENSE OF NOTICES AND DISSOLUTION PROCEEDINGS
- 40-1409 EXPENSES OF ELECTION
- 40-1416 AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE
- 40-1417 [REPEALED - S.L. 2019, Ch. 288]
- 40-1418 PROCEEDINGS FOR DISSOLUTION OF EXISTING SINGLE COUNTYWIDE HIGHWAY DISTRICT
- 40-1501 HIGHWAY DISTRICTS — CONSOLIDATION — EFFECT OF CONSOLIDATION
- 40-1502 PETITIONS FOR CONSOLIDATION
- 40-1503 ORDER FOR HEARING — NOTICE
- 40-1504 PUBLICATION OF NOTICE
- 40-1505 HEARING — ORDER FOR ELECTION — CONSOLIDATION, WHEN DEFEATED
- 40-1506 POLLING PLACES — ELECTION OFFICERS
- 40-1507 NOTICE OF ELECTION — PUBLICATION AND CONTENTS
- 40-1508 ELECTIONS — TIME OF HOLDING
- 40-1509 CONDUCT OF ELECTIONS
- 40-1510 DEFEAT OF PROPOSAL — SUBSEQUENT ELECTIONS
- 40-1511 COUNT OF VOTES — CANVASS — ORDER FOR CONSOLIDATION
- 40-1519 EXPENSES OF ELECTION
- 40-1601 DISTRICTS SUBJECT TO DETACHMENT
- 40-1602 PETITION
- 40-1603 ORDER FOR HEARING UPON PETITION
- 40-1604 NOTICE OF HEARING AND PETITION
- 40-1605 HEARING — ORDER FOR ELECTION
- 40-1606 ELECTION OFFICERS AND POLLING DISTRICTS — NOTICE OF ELECTION
- 40-1607 ELECTION PROCEDURE
- 40-1608 ORDER DECLARING TERRITORY DETACHED

**Highway District Elections  
Selected Code Sections**

40-1615	PETITION FOR ANNEXATION
40-1616	REQUIRED EXHIBITS IN CONNECTION WITH PETITION
40-1617	HEARING ON PETITION — NOTICE
40-1618	OBJECTIONS TO PETITION — HEARING
40-1619	APPROVAL OR REJECTION OF PETITION
40-1620	ORDER OF ANNEXATION
40-1622	EFFECT OF ANNEXATION
40-1623	CONTESTING PROCEEDINGS — TIME LIMIT
40-1624	ANNEXATION OF CONTIGUOUS TERRITORY
40-1625	ELECTION DATE WHERE TERRITORY LIES IN MORE THAN ONE COUNTY
40-1626	PETITION FOR ELECTION — ELECTION
40-1627	MAJORITY VOTE REQUIRED APPROVING ANNEXATION — ACTION OF COMMISSIONERS
40-1628	CERTIFICATION BY COMMISSIONERS OF ORDER APPROVING ANNEXATION
40-1630	PAYMENT OF COSTS OF ELECTION
40-1702	COUNTYWIDE ELECTION TO ADOPT METHOD OF SECONDARY HIGHWAY ADMINISTRATION — PROCEDURE
40-1703	SUBSEQUENT ELECTIONS
40-1705	ORGANIZATION OF COUNTYWIDE HIGHWAY DISTRICTS — HIGHWAY DISTRICT COMMISSIONERS — APPOINTMENT — TERMS — ELECTION
40-1713	MEETING OF HIGHWAY STUDY COMMISSION — SELECTION OF OPTION FOR SUBMISSION — ELECTION — IMPLEMENTATION OF OPTION — RETENTION OF EXISTING SYSTEM
40-1714	EXPENSES OF ELECTION
40-1801	DISTRICTS SUBJECT TO DISSOLUTION
40-1802	PETITION FOR DISSOLUTION — CONTENTS
40-1803	ORDER FOR HEARING UPON PETITION
40-1804	NOTICE OF PETITION AND HEARING
40-1805	HEARING — ORDER FOR ELECTION
40-1806	ELECTION OFFICERS — NOTICE OF ELECTION
40-1807	QUALIFICATIONS OF VOTERS
40-1808	CONDUCT OF ELECTIONS
40-1809	COUNTING VOTES — CANVASS — ORDER OF DISSOLUTION
40-1810	EXPENSES OF DISSOLUTION — HOW BORNE AND PAID

Title 40 - Highways and Bridges  
Chapter 2 - General Provisions

**40-206. PUBLICATION OF NOTICES.** Whenever publication of a notice by a county highway system or highway district is required for an override or bond election, or a hearing, it shall appear in a newspaper printed and published within the district or county, or in some newspaper of general circulation in the county or district, and the notice shall be published as follows:

(1) The publication of notice for an override or bond election shall be published as provided for in section 34-1406, Idaho Code.

(2) The publication of notice for a hearing shall be published at least one (1) time in a weekly newspaper or at least two (2) consecutive times in a daily newspaper and remain the responsibility of the political subdivision proposing such hearing. The last notice shall be published not less than five (5) days prior to the hearing, except as otherwise specifically provided in this title. (History: S.L. 1989, Ch. 349; S.L. 1994,

## **Highway District Elections Selected Code Sections**

Ch. 123; S.L. 2009, Ch. 341)

### Title 40 - Highways and Bridges Chapter 8 - Taxes

**40-819. ELECTION TO INCREASE LEVY — NOTICE.** (1) Whenever the levies provided by law to be made by highway district commissioners will not, in the opinion of the highway district commissioners, produce a sufficient amount of money for the use of the highway district for their purposes, the highway district board may by order authorize the holding of an election within the highway district, at which election the voters may determine whether or not any levy for any purpose authorized by law for highway districts shall be increased to produce revenues for those purposes. If at the election the majority of the qualified voters shall vote in favor of increasing any of the levies, the levies may be increased. The increase shall not exceed an additional twenty percent (20%) of the levy authorized by law for that purpose.

(2) The highway district commissioners shall designate the date of the election that is in accordance with the dates authorized in section 34-106, Idaho Code, and which shall be held within the highway district. Notice of the election shall be given by the county clerk in accordance with the provisions of title 34, Idaho Code, and section 40-206, Idaho Code. The notice shall state:

- (a) The time and place of holding the election;
  - (b) The amount of money which the levy authorized by law to be made by the highway district commissioners will produce;
  - (c) The amount of money in excess of each of the levies desired to be raised by the highway district commissioners, and generally the purpose for which the additional money is to be used;
  - (d) If at the election a majority of the qualified voters voting vote in favor of increasing the levy that the levy may be increased in an amount not exceeding twenty percent (20%) of the levy provided by law; and
  - (e) The additional levy, if authorized by a majority vote at the election, will when added to the levy provided by law provide sufficient money for the particular purpose of which the levy is authorized.
- (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

### Title 40 - Highways and Bridges Chapter 11 - Bonds

**40-1101. Bonds — Funding.** Every highway district is granted the authority under article VIII of the Idaho constitution to issue negotiable coupon bonds for construction, improvements or repairs of any highways or structures in the district; for the purchase of material and machinery; for contracting highway engineering and construction; for the necessary expenses of the district in connection with these purposes; or for any or all of these or connected purposes. Every highway district is also granted the authority by resolution of its board of commissioners, without election, to issue negotiable coupon bonds for the purposes of funding or refunding any existing indebtedness, whether the indebtedness exists as warrant indebtedness or otherwise. Where an election is required under the provisions of article VIII of the Idaho constitution to authorize a bond issue, the election may be held with other elections. Elections shall be conducted by the county clerk in the same manner as county elections pursuant to title 34, Idaho Code. Authorization for the issuance, sale and redemption of bonds other than funding or refunding existing indebtedness, shall be as provided by chapter 2, title 57, Idaho Code. The total amount of bonds any district has issued and outstanding at any time shall not exceed two percent (2%) of the market value for assessment purposes of all the taxable property in the district as shown by the last preceding assessment list. (History: S.L. 1985, Ch. 253; S.L. 1986, Ch. 327; S.L. 2009, Ch. 341)

**40-1105. ELECTION — ISSUANCE.** The election and all acts and proceedings had and taken in

## **Highway District Elections Selected Code Sections**

connection by highway district commissioners in respect to bonds and the levy of ad valorem taxes for the construction, improvement or repair of highways are legalized, approved and validated and constituted the negotiable legal obligations of the highway district, where:

- (1) A two-thirds (2/3) majority of the qualified electors of the highway district voting on the proposition voted in favor of the issuance of bonds of the highway district;
- (2) Notice of the election was given as essentially provided by section 40-206, Idaho Code;
- (3) The canvass of the vote revealed the required majority was recorded in the records of the highway district commissioners, and a resolution adopted and recorded in the district records authorizing the issuance of bonds of the district;
- (4) The maturity of the bonds was within thirty (30) years;
- (5) A rate of interest was prescribed and an ad valorem tax upon all taxable property in the district sufficient to pay the bonds as maturity was levied; and
- (6) The bonds were in an amount not exceeding ten per cent (10%) of the assessed valuation if sold and delivered prior to July 1, 1980, or two per cent (2%) of the market value for assessment purposes if sold and delivered on or after July 1, 1980, of all taxable property of the highway district, and the proceeds received by the treasurer of the highway district and expended in the construction, improvement or repair of highways located within the highway district. (History: S.L. 1985, Ch. 253)

**40-1106. BONDS OF COUNTY.** Nothing in this chapter shall be construed as a limitation of the power of the commissioners to issue bonds for the construction or the repairs of highways and bridges. Whenever the commissioners shall issue bonds for the construction or repair of highways and bridges under the provisions of chapter 19, title 31, Idaho Code, upon the authorization of two-thirds (2/3) of the qualified electors of the county voting at an election held for that purpose, pursuant to a resolution of the commissioners and entered upon their journal specifying, describing and defining the highways or bridges to be constructed or repaired, and giving the termini and the general course of each highway and the approximate location of each bridge it is proposed to construct, and appropriating a specific amount for any highway or bridge wholly or partially within any organized highway district, then the commissioners shall have full jurisdiction and power to locate and construct or repair the highway or bridge within the highway district, and to apply a specific appropriation so derived from the issue of bonds or so much of them as may be necessary. (History: S.L. 1985, Ch. 253)

### Title 40 - Highways and Bridges Chapter 13 - Highway Districts

**40-1302. COUNTY DIVISION OR CHANGE IN BOUNDARIES — JOINT HIGHWAY DISTRICT FORMED.** When a county division or change in the boundaries of a county divides an existing highway district the district shall continue as a joint highway district until changed as provided by this title. It shall be the duty of the commissioners of the respective counties affected to rename the district as a joint highway district, and the renamed joint highway district shall in all things be considered a continuation of the existing district. (History: S.L. 1985 Ch. 253)

**40-1303. HIGHWAY COMMISSIONERS — APPOINTMENT — OATH.** There shall be three (3) highway commissioners in each district. The first highway commissioners of the highway district organized under the provisions of this chapter shall be appointed by the governor. It shall be the duty of the governor, in the appointment of the original highway commissioners, where there had been in existence any highway district within the boundary of the newly created highway district, to appoint whenever practicable, existing highway commissioners as they shall qualify by residence in the subdistricts of the newly created highway district as highway district commissioners of the newly created highway district. County commissioners,

## **Highway District Elections Selected Code Sections**

city mayors and city council members shall not be eligible to hold office as highway district commissioners. A copy of the certificate of each appointment shall be filed in the office of the county recorder of each county in which the highway district is located and with the clerk of the highway district. Every highway commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the highway district commissioners. (History: S.L. 1985, Ch. 253; S.L. 1999, Ch. 332)

**40-1304. DIVISION OF DISTRICTS INTO SUBDISTRICTS — VACANCY IN OFFICE OF HIGHWAY COMMISSIONER.** (1) At the meeting of the county commissioners at which the highway district is declared organized, the commissioners shall divide the highway district into three (3) subdistricts, as nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified by the highway district commissioners as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict. The first highway district commissioners appointed by the governor shall serve until the next highway district election, at which their successors shall be elected. The highway commissioners shall take office on July 1 following their election.

(2) Any vacancy occurring in the office of highway commissioner, other than by expiration of the term of office, shall be determined by the remaining highway district commissioners using the criteria established in section 59-901, Idaho Code. If it is determined that a vacancy has occurred, the commissioners shall declare there is a vacancy and such vacancy shall be filled by the highway district board and be for the balance of the term of the person replaced. If the remaining highway district commissioners are unable to agree on a person to fill the vacancy within thirty (30) days after the vacancy occurs, the chairman of the county commissioners of the county with the largest number of electors in the highway district shall then become a member of the highway district board for the purpose of filling the vacancy only. If a majority of the highway district board so constituted shall be unable to agree upon a person to fill the vacancy within thirty (30) days, or if two (2) or more vacancies shall occur in the board of highway commissioners at one time, a special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of elections for highway commissioners, except that the date of the election shall be as soon as possible, and all duties imposed by law upon the highway district board in connection with elections shall be performed by the county commissioners.

(3) When there are two (2) or more vacancies on the highway district board at the same time, the chairman of the county commissioners, along with the additional county commissioners that the county commission chairman appoints, and with the remaining highway district commissioner, if applicable, shall constitute a temporary board of highway district commissioners. The temporary board of highway district commissioners shall perform the duties required by law of a highway district board of commissioners until the newly elected highway commissioners take office. (History: S.L. 1985, Ch. 253; S.L. 1991, Ch. 123; S.L. 1999, Ch. 332; S.L. 2006, Ch. 165; S.L. 2009, Ch. 341; S.L. 2011, Ch. 11; S.L. 2017, Ch. 212)

**40-1305. ELECTION OF HIGHWAY COMMISSIONERS — TERM OF OFFICE.** (1) On the third Tuesday of May of the next odd-numbered year following the appointment of the first highway district commissioners, commissioners from subdistricts one and two shall be elected for a term of two (2) years and the commissioner from subdistrict three shall be elected for a term of four (4) years. Thereafter the term of office of all commissioners shall be four (4) years.

(2) A highway district whose terms and election were established by prior law shall convert to the election of commissioners as provided in subsection (1) of this section. Each highway commissioner shall be elected on a districtwide basis. (History: S.L. 1985, Ch. 253; S.L. 1994, Ch. 123; S.L. 2002, Ch. 298; S.L. 2009, Ch. 34; S.L. 2010, Ch. 185; S.L. 2010, Ch. 197)

**40-1305A. ELECTION ADMINISTRATION.** Highway district elections shall be conducted in accordance

## **Highway District Elections Selected Code Sections**

with the general laws of the state, including the provisions of chapter 14, title 34, Idaho code. The county commissioners shall select polling places and the county clerk shall appoint election judges and clerks.

The county clerk shall conduct the elections for a highway district and shall perform all necessary duties of the election official of a highway district. (History: S.L. 1994, Ch. 123; S.L. 2008, Ch. 258; S.L. 2009, Ch. 341)

**40-1305B. BOARD OF COMMISSIONERS — ONE NOMINATION — NO ELECTION.** In any election for a highway district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of highway district commissioners shall declare such candidate elected as commissioner, and the secretary of the highway district shall immediately make and deliver to such person a certificate of election signed by him and bearing the seal of the district. (History: S.L. 2009, Ch. 98)

**40-1305C. DECLARATION OF CANDIDACY — QUALIFICATIONS.** (1) Candidates for election as a highway district commissioner shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the subdistrict for which the nomination is made, the term for which nomination is made, bear the signature of not less than five (5) electors of the candidate's specific subdistrict, and be filed with the election official of the highway district. The form of the nominating petition shall be as provided by the county clerk. The nomination shall be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The election official shall verify the qualifications of the nominee, and shall not more than seven (7) days following the filing certify the nominees to be placed on the ballot.

(2) A nominee shall qualify for the office of highway district commissioner if such nominee:

(a) Has attained the age of twenty-one (21) years at the time of his election; and

(b) Is a citizen of the United States; and

(c) Is a resident of the highway district commissioner's subdistrict for which he seeks office. (History: S.L. 1994, Ch. 123; S.L. 2006, Ch. 165)

### Title 40 - Highways and Bridges Chapter 14 - Single County-wide Highway Districts

**40-1401. ELECTION TO ESTABLISH DISTRICT.** Any county may, at the discretion of the commissioners, or shall, upon a request in writing from ten percent (10%) or more of the qualified electors residing in each of the county commissioner subdistricts, hold an election at which the following question shall be submitted to the electorate: "Shall this county be served by one county-wide highway district for all city highways and county secondary highways?". The election for this question shall be held at the next general election following a decision by the board of county commissioners for such an election or upon receipt of the qualified voters written requests to hold such election. At least one (1) public hearing shall be held by the board of county commissioners, prior to the election. (History: S.L. 1985, Ch. 253; S.L. 1988, Ch. 221)

**40-1403. REJECTION OF PLAN — INTERVALS FOR NEW ELECTIONS.** In any county where the question fails of adoption, another election may be called and held by the submission of petitions, but any subsequent election shall be held not oftener than two (2) years after the holding of any election submitting the question to the vote of the electorate. (History: S.L. 1985, Ch. 253)

**40-1404. APPOINTMENT OF FIRST HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN**



## **Highway District Elections Selected Code Sections**

**COUNTYWIDE HIGHWAY DISTRICTS — SUBDISTRICTS — ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS.** For counties with a population of two hundred thousand (200,000) persons or less, if there is a majority affirmative vote at the election the county commissioners, at their next meeting shall organize the countywide highway district. The county shall be subdivided by the county commissioners into three (3) subdistricts, designated subdistricts number one, two and three, as nearly equal in population as practicable, and one (1) highway commissioner shall represent each subdistrict and be a resident of the subdistrict. The governor shall appoint the first countywide highway district commissioners. Where one (1) or more highway districts have been in existence at the time of the creation of the countywide highway district, the governor shall appoint, whenever practicable, at least one (1) of the former highway district commissioners as they shall qualify by reason of residence in the territorial limits of the subdistricts of the countywide highway district as a commissioner of the countywide highway district. County commissioners and city council members shall not be eligible to hold office as a countywide highway district commissioner. The originally appointed commissioners shall serve until the next general election when two (2) members shall be elected for two (2) years and one (1) member shall be elected for a term of four (4) years, the commissioner from subdistrict number one being elected for a term of four (4) years. The four (4) year term shall be allotted thereafter in rotation to subdistricts number two, three and one. A qualified voter of the countywide highway district shall be eligible to vote for each of the countywide highway district commissioners, and the election shall be conducted as provided by Idaho statutes relating to holding elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election, and each may be compensated in accordance with the provisions of section 40-1314, Idaho Code, or receive a salary not to exceed six hundred dollars (\$600) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed seven hundred dollars (\$700) per calendar month. (History: S.L. 1985, Ch. 253; S.L. 1988, Ch. 221; S.L. 1993, Ch. 109; S.L. 1998, Ch. 300; S.L. 2003, Ch. 68)

**40-1404A. ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS.** In countywide highway districts located in a county with a population of more than two hundred thousand (200,000) persons in which the voters have chosen to establish a countywide highway district at a previous election, the county shall be divided by the county commissioners immediately upon the effective date of this act into five (5) subdistricts which shall be as nearly equal in population as practicable. No precincts shall be divided. A highway district commissioner shall be a resident of the subdistrict which he represents. Voters in each subdistrict shall vote only for one (1) candidate seeking to represent that subdistrict. County commissioners, mayors and city council members shall not be eligible to hold office as a countywide highway district commissioner. At the election held in 1998, commissioners representing subdistricts two and five shall be elected for two (2) year terms and commissioners representing subdistricts three and four shall be elected for four (4) year terms. Thereafter, all commissioners shall be elected for four (4) year terms. Any incumbent in office on the effective date of this act may complete the term to which they were elected and shall represent the subdistrict in which they reside. Any incumbent in office on the effective date of this act whose term expires on January 1, 2000, shall retain that office until January 1, 2000, shall be assigned the subdistrict in which they reside by the county commissioners, which subdistrict shall be numbered one as provided in this section and that commissioner need not stand for election in 1998.

A qualified voter of the countywide highway district shall be eligible to vote for a countywide highway district commissioner residing in the elector's subdistrict, and the election shall be conducted as provided by Idaho statutes relating to holding general elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election, and each may be compensated in accordance with the provisions of section 40-1314, Idaho

## **Highway District Elections Selected Code Sections**

Code, or receive a salary not to exceed one thousand two hundred dollars (\$1,200) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed one thousand four hundred dollars (\$1,400) per calendar month. (History: S.L. 1998, Ch. 300; S.L. 2001, Ch. 44; S.L. 2003, Ch. 68)

**40-1404B. VACANCIES — FILLING A MID-TERM VACANCY.** (1) Any vacancy occurring on the highway district board, other than by expiration of the term of office, shall be determined by the remaining highway district board using the criteria established in section 59-901, Idaho Code.

(2) If it is determined that a vacancy has occurred as provided in subsection (1) of this section, the remaining highway district board shall declare there is a vacancy and such vacancy shall be filled as herein provided:

(a) The remaining highway district board shall have thirty (30) days to appoint a person to fill the vacancy.

(b) If a majority of the remaining highway district board so constituted shall be unable to agree upon an appointment of a person to fill the vacancy before the expiration of the thirty (30) day period, the remaining highway district board shall submit a list of three (3) nominations to the governor within five (5) days.

(c) The governor shall fill the vacancy within ten (10) days by appointing a person having the qualifications set forth herein. In the event the remaining highway district board fails to submit a list of three (3) nominations as set forth in this section, the governor shall have an additional ten (10) days to fill the vacancy by appointing a person having the same qualifications at the time of the appointment as those provided by law for election to the office.

(3) The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the vacant office.

(4) The term of the appointment shall be for the balance of the term of the person replaced.

(5) Appointment pursuant to the provisions of this chapter shall be in writing and filed with the secretary of the highway district, the clerk of the county commissioners and the tax collector of the county.

(6) Any person appointed to fill a vacancy, after filing the official oath and qualifying for the official bond in accordance with the provisions of section 40-1405, Idaho Code, shall possess all the rights and powers, and is subject to all the liabilities, duties and obligations of the office filled. (History: S.L. 2013, Ch. 18)

**40-1408. EXPENSE OF NOTICES AND DISSOLUTION PROCEEDINGS.** The expense of all notices and proceedings in relation to the dissolution of a city highway system, highway district and/or county highway system shall be chargeable to and borne by each respective city highway system, highway district and/or county highway system dissolved. (History: S.L. 1985, Ch. 253; S.L. 1988, Ch. 221)

**40-1409. EXPENSES OF ELECTION.** In all counties where elections are held under the provisions of this chapter, county commissioners shall pay expenses of the elections from the election fund of the county. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

**40-1416. AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE.** (1) Notwithstanding the provisions of section 49-207, Idaho Code, the voters of any county in which a countywide highway district is organized pursuant to chapter 14, title 40, Idaho Code, may authorize the countywide highway district to adopt a resolution by a majority vote of the countywide highway district commissioners to implement and collect a motor vehicle registration fee not to exceed two (2) times the amount established in section 49-402, Idaho Code. The authorization to adopt, implement, and collect a vehicle registration fee may be made by the registered voters of the county only at a general election held in even-numbered years, and a simple majority of the votes cast on the question shall be necessary

## **Highway District Elections Selected Code Sections**

to authorize the fee.

(2) In any election, the resolution submitted to the county voters shall:

- (a) State the exact rate of the fee; and
- (b) State the duration of the fee.

No rate shall be increased and no duration shall be extended without the approval of the voters, by the same simple majority of the votes cast.

An election to approve or disapprove the adoption of a vehicle registration fee may be called for by the adoption of a resolution by a majority vote of the countywide highway district commissioners. Any costs incurred to conduct the election for the district shall be paid by the county.

(3) Any countywide highway district authorized to adopt a resolution for a vehicle registration fee shall contract with the department for the collection, distribution, and administration of the fee in like manner, and under the definitions and rules for the collection and administration of other registration fees as set forth in chapter 4, title 49, Idaho Code. Monthly, following receipt by the department of revenues from the implementation of a vehicle registration fee, the department shall remit the same to the countywide highway district implementing such fee, less a deduction for such amount as may be agreed upon between the department and the commissioners of the countywide highway district, for the department's actual costs for collection and administration of the fee. The vehicle registration fee shall not become part of the state highway account or state highway distribution account.

(4) The countywide highway district must use the funds generated by a vehicle registration fee exclusively for the construction, repair, maintenance, and traffic supervision of the highways within its jurisdiction, and the payment of interest and principal of obligations incurred for said purposes.

(5) Sections 49-405, 49-408, 49-416, 49-404, 49-409, 49-415 and 49-410, Idaho Code, shall be subject to the provisions of this section. (History: S.L. 1986, Ch. 260; S.L. 1987, Ch. 125; S.L. 1988, Ch. 265; S.L. 1991, Ch. 285; S.L. 2009, Ch. 341)

**40-1417. [REPEALED - S.L. 2019, Ch. 288]**

**40-1418. PROCEEDINGS FOR DISSOLUTION OF EXISTING SINGLE COUNTYWIDE HIGHWAY DISTRICT.** All proceedings for the dissolution of single countywide highway districts shall be initiated by a petition of ten percent (10%) or more of the qualified electors residing in each of the county commissioner subdistricts, addressed to the commissioners of the county in which the single countywide highway district is situate, and which shall concisely state the grounds or reasons for the dissolution and contain a request for a hearing of the petition. A hearing on the petition shall be conducted pursuant to sections 40-1803 through 40-1805, Idaho Code. Following the hearing on the petition, the election and process for dissolution shall be conducted as provided in title 34, Idaho Code. The election shall be held at the next general election and in the event a majority of the qualified electors at the election vote in favor of dissolution, the commission shall immediately make and enter an order declaring the single countywide highway district dissolved. (History: S.L. 2004, Ch. 361; S.L. 2009, Ch. 341)

Title 40 - Highways and Bridges  
Chapter 15 - Consolidation of Highway Districts

**40-1501. HIGHWAY DISTRICTS — CONSOLIDATION — EFFECT OF CONSOLIDATION.** Any highway district within the state, whether the same are situated entirely within the boundaries of any one (1) county or within two (2) or more adjoining counties, may be consolidated with any adjoining highway

## **Highway District Elections Selected Code Sections**

district, whether situated entirely within the boundaries of any county or within two (2) or more adjoining counties. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202)

**40-1502. PETITIONS FOR CONSOLIDATION.** (1) Whenever electors of two (2) or more existing adjoining highway districts desire to consolidate those districts, a petition from each of the districts for consolidation, signed by five percent (5%) or twenty-five (25) electors, whichever is greater, qualified to vote at a highway district election in each of the highway districts, shall be presented to the commissioners of the county in which the highway districts are situated. The petitions shall state the name and, in a general way, describe the highway districts which it is proposed to consolidate.

(2) A majority of the elected commissioners of each of two (2) or more existing adjoining highway districts may also, on their own initiative, petition the county commissioners, in lieu of a petition as provided in subsection (1) of this section. (History: S.L. 1985, Ch 253; S.L. 2000, Ch. 202)

**40-1503. ORDER FOR HEARING — NOTICE.** The commissioners of the counties concerned, shall at the earliest possible date, meet at a time and place as shall be agreed upon by them, and at the meeting shall, by order, entered in the minutes of the commissioners of each of the counties concerned, fix a time and place for a hearing upon the petitions, which time shall not be less than sixty (60) days from and after the date of the first publication of notice of the petition and hearing on them. The hearing meeting shall be at the county seat of one of the counties concerned. At the meeting the commissioners shall prepare a notice of hearing to be signed by them and attested by the county clerks, setting forth the filing of petitions; the name and general description of the highway districts proposed to be consolidated; the total bonded and current warrant and other indebtedness; the market value for assessment purposes and the last preceding ad valorem tax levy of each of the highway districts; a statement that at the hearing any elector qualified to vote at elections of highway district commissioners of the highway districts proposed for consolidation may, prior to or at the time of the hearing, file with the clerk of the commissioners of the county in which he resides, written objections to the proposed consolidation; and that at the hearing any qualified elector of the highway districts proposed for consolidation may appear and make oral objections to the consolidation. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202)

**40-1504. PUBLICATION OF NOTICE.** The clerk of commissioners of each of the counties concerned shall cause to be published a copy of notice as provided by section 40-206, Idaho Code. (History: S.L. 1985, Ch. 253)

**40-1505. HEARING — ORDER FOR ELECTION — CONSOLIDATION, WHEN DEFEATED.** At the time and place specified in the notice, the county commissioners shall proceed to consider the petition and all written and oral objections, and shall hear all qualified persons in relation to it. Upon conclusion of the hearing, which may be continued from day to day, if a majority of the members of each of the commissioners of the counties involved are of the opinion that a consolidation is practical and to the best interests of each and all of the highway districts concerned, they shall make an order directing that the question of consolidation of the highway districts proposed for consolidation be submitted to the electors at an election to be held separately within each of the highway districts at a date in conformance with section 34-106(1), Idaho Code, but not less than ninety (90) days after the date of the order. The date of the election shall be specified in the order. The order shall set forth: the name, number, and general description of the respective highway districts proposed to be consolidated; the market value for assessment purposes of all the property situated in each of the concerned highway districts, as shown by the last county assessment rolls; the total bonded and current warrant and other indebtedness of each of the highway districts; the

## **Highway District Elections Selected Code Sections**

preceding ad valorem highway tax levy of each of the highway districts; and the total bonded and current warrant and other indebtedness of the proposed consolidated highway district. A copy of the order shall be entered in the minutes of the commissioners of each county concerned. The proposed consolidation shall be defeated if a majority of the commissioners of either of the counties concerned vote against it, and in that event a record of that action shall be entered in the minutes of each of the counties concerned. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202)

**40-1506. POLLING PLACES — ELECTION OFFICERS.** The commissioners of each county concerned shall meet within thirty (30) days, in either special or regular session and, by order, enter in their minutes and designate the polling places in each of the concerned highway districts situated in the county, and the county clerk shall appoint judges. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202; S.L. 2009, Ch. 341)

**40-1507. NOTICE OF ELECTION — PUBLICATION AND CONTENTS.** The commissioners of each county shall require its county clerk to give notice of the election in accordance with the provisions of title 34, Idaho Code. In addition, the notice shall state the purpose and date of the election, the hours during which the polls shall be open and list the polling places, in addition to the following: the name and general description of the respective highway districts proposed to be consolidated; the market value for assessment purposes of all the property situated in each of the concerned highway districts, as shown by the last county assessment rolls; the total bonded and current warrant and other indebtedness of each of the highway districts; the preceding property highway tax levy of each of the highway districts; and the total bonded and current warrant and other indebtedness of the proposed consolidated highway district. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202; S.L. 2009, Ch. 341)

**40-1508. ELECTIONS — TIME OF HOLDING.** An election held under the provisions of this chapter shall be held in each of the highway districts and counties affected by the proposed consolidation and shall be held on the same day and conducted in accordance with the provisions of title 34, Idaho Code. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202; S.L. 2009, Ch. 341)

**40-1509. CONDUCT OF ELECTIONS.** (1) The polls shall be presided over by the appointed judges and clerks who must take an oath as judge and clerk of the highway district election and which oath shall obligate the judges and clerks to faithfully perform the duties of a board of election.

(2) All elections shall be by secret and separate ballot, each ballot in type, print or legible writing, stating in the affirmative and negative the proposition to be voted upon, and all ballots shall be in a form that the voters may express a choice by the marking of a cross (X).

(3) In all elections it is intended that no informalities in conducting the election shall invalidate the election, if the election has been otherwise fairly conducted. The clerks of the county commissioners shall prepare the necessary ballots for use in each of the highway districts. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202)

**40-1510. DEFEAT OF PROPOSAL — SUBSEQUENT ELECTIONS.** The failure to carry the proposal to consolidate highway districts by at least a majority vote in any one (1) of the highway districts concerned shall defeat the entire proposal. Subsequent elections to consolidate highway districts having failed to be consolidated as provided in this chapter shall not be considered for consolidation under the provisions of this chapter for a period of four (4) years after the consolidation election. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202)

**40-1511. COUNT OF VOTES — CANVASS — ORDER FOR CONSOLIDATION.** Immediately following the close of the polls, the votes shall be counted in accordance with the provisions of title 34, Idaho Code.

## **Highway District Elections Selected Code Sections**

The board of county commissioners shall meet separately at their respective county seats and pursuant to chapter 12, title 34, Idaho Code, canvass the returns within each county. Within fifteen (15) days after the canvass, the commissioners shall meet in joint session at a location as shall be agreed upon by them and compile the total votes cast in their respective counties for or against the proposal to consolidate the highway districts concerned. If the proposal carried in each of the highway districts concerned, the county commissioners in the joint meeting shall make and enter an order declaring the districts consolidated in one (1) highway district of a name or designation as may be ordered by them, and at that time the consolidation shall be effective. The highway districts having been consolidated shall remain in operation, with all legal authority of a highway district, until the newly appointed highway commissioners of the consolidated highway district meet and organize as provided in this chapter. (History: S.L. 1985, Ch. 253; S.L. 2000, Ch. 202; S.L. 2009, Ch. 341)

**40-1519. EXPENSES OF ELECTION.** In all counties where highway district consolidation elections are held under the provisions of this chapter, county commissioners shall pay expenses of the elections from the election fund of the county. (History: S.L. 2000, Ch. 202; S.L. 2009, Ch. 341)

### Title 40 - Highways and Bridges Chapter 16 - Detachment or Annexation of Territory

**40-1601. DISTRICTS SUBJECT TO DETACHMENT.** A portion of the territory of an existing highway district, whether the district is situated wholly in one (1) county or in two (2) or more counties, may be detached from the highway district as provided in this chapter. (History: S.L. 1985, Ch. 253)

**40-1602. PETITION.** Whenever electors of a portion of the territory embraced in any existing highway district desire that their portion be detached from the highway district, a petition describing the territory by its boundaries, signed by not less than twenty-five (25) electors qualified to vote at a highway district election and residing in the territory sought to be detached shall be presented to the commissioners of the county where the greatest portion of the highway district is located. (History: S.L. 1985, Ch. 253)

**40-1603. ORDER FOR HEARING UPON PETITION.** Immediately upon its next regular meeting or at a special meeting called for that purpose, the commissioners shall by order or resolution fix a time and place for a hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and of the hearing. (History: S.L. 1985, Ch. 253)

**40-1604. NOTICE OF HEARING AND PETITION.** The commissioners shall require their clerk to have a notice published in accordance with the provisions of section 40-206, Idaho Code, setting forth the fact that a petition has been filed with the commissioners. The notice shall state the name of the highway district from which territory is proposed to be detached; a concise general description of the territory so proposed to be detached and its boundaries; the current bonded and current warrant indebtedness of the district; a notice of the time and place when and where the petition will be heard by the commissioners; and notice that any elector qualified to vote at an election of the district may, prior to or at the time of the hearing, file with the clerk of the commissioners written objections to the proposed detachment of the territory. (History: S.L. 1985, Ch. 253)

**40-1605. HEARING — ORDER FOR ELECTION.** At the time and place specified in the notice, the commissioners shall proceed to consider the petition and all written objections filed with them and shall hear all persons in relation to it. Upon the conclusion of the hearing, which may be continued from day to day, if the commissioners shall determine that the detachment from the highway district of the territory described in the petition is practicable and to the best interests of the territory and of the highway district, they shall enter an order directing that the question of the detachment of the territory be submitted to the

## **Highway District Elections Selected Code Sections**

qualified electors of the district at an election to be held within the district on a date authorized in section 34-106, Idaho Code, which is not less than thirty (30) days from and after the date of the order. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

**40-1606. ELECTION OFFICERS AND POLLING DISTRICTS — NOTICE OF ELECTION.** The county clerk shall appoint judges for the election; the commissioners shall by order establish polling places; and the county clerk shall provide notice of the election in accordance with the provisions of section 34-1406, Idaho Code. The notice shall state the date and purpose of the election, the boundaries of the territory proposed to be detached from the highway district, the places of holding the election, the various polling districts if the election is to be held in more than one (1) place, the qualifications required of voters, and the hours during which the polls shall be open. (History: S.L. 2000, Ch. 202; S.L. 2009, Ch. 341)

**40-1607. ELECTION PROCEDURE.** The qualifications of voters at the elections, the conduct of elections, the counting of the votes, the return of the ballots, and the payment of expenses of the election shall be as prescribed in title 34, Idaho Code. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

**40-1608. ORDER DECLARING TERRITORY DETACHED.** If upon the canvass of the returns of the election the commissioners shall find that a majority of the votes cast in the district are in favor of the detachment from the highway district of the territory embraced in the proposal for detachment, they shall immediately make and enter an order declaring that territory detached from the district to the extent and for the purposes set forth. (History: S.L. 1985, Ch. 253)

**40-1615. PETITION FOR ANNEXATION.** (1) The proceedings for inclusion shall be initiated by petition of twenty per cent (20%) of the qualified electors in the area proposed to be annexed to and included within the highway district. The petition shall accurately describe the boundaries of the area to be annexed, and shall state the name and identify the highway district to which the annexation is sought, and shall be accompanied by a map showing and distinguishing the boundaries of the highway district and the boundaries of the area proposed to be annexed to the highway district.

(2) Proposals for the annexation of territory consisting entirely of public lands, or of a combination of public lands and privately held lands but which have no qualified electors to initiate a petition, may be initiated by petition of the highway commissioners of the district to which the proposed annexation is to be made. (History: S.L. 1985, Ch. 253)

**40-1616. REQUIRED EXHIBITS IN CONNECTION WITH PETITION.** The petition, accompanied by a map and also by a certified copy of a resolution of the highway commissioners of the highway district approving and consenting to the inclusion and annexation shall be filed with the clerk of the commissioners. (History: S.L. 1985, Ch. 253)

**40-1617. HEARING ON PETITION — NOTICE.** Upon the filing of petitions, the commissioners shall fix a time for hearing the petition and shall cause a notice to be published in accordance with the provisions of section 40-206, Idaho Code, and shall describe the area proposed to be annexed to the highway district. (History: S.L. 1985, Ch. 253)

**40-1618. OBJECTIONS TO PETITION — HEARING.** Any qualified elector in the area to be annexed, and any qualified elector of the highway district, may file objections to the petition and may be heard at the hearing. Objections must be filed prior to or at the time of the hearing. (History: S.L. 1985, Ch. 253)

**40-1619. APPROVAL OR REJECTION OF PETITION.** Upon the hearing of the petition the commissioners may approve or reject the petition. The commissioners, upon the approval of the highway

## **Highway District Elections Selected Code Sections**

commissioners, may modify the area described in the petition. (History: S.L. 1985, Ch. 253)

**40-1620. ORDER OF ANNEXATION.** If the commissioners shall find that the annexation by the highway district is for the best interests of the highway system in the county, then the commissioners shall order that the area, or any modifications of it made by the commissioners, shall be annexed to the highway district, and an order shall be entered in the minutes of the commissioners, and the area shall then constitute and be a part of the highway district. (History: S.L. 1985, Ch. 253)

**40-1622. EFFECT OF ANNEXATION.** The area annexed to the highway district shall be placed by the highway commissioners of the district into the subdistrict or subdistricts of the district as they shall determine and shall be subject to taxation for the payment of all of the outstanding obligations of the district existing at the time of annexation, and subject to taxation as all other lands of the district for the operation of the highway system of the district. (History: S.L. 1985, Ch. 253)

**40-1623. CONTESTING PROCEEDINGS — TIME LIMIT.** After the order of annexation is made by the commissioners, the validity of the proceedings shall not be affected by any defect in the petition or in the number or qualification of its signers, and no action shall be commenced or maintained or defense made affecting the validity of the annexation after six (6) months from and after the making and entering of the order by the commissioners. (History: S.L. 1985, Ch. 253)

**40-1624. ANNEXATION OF CONTIGUOUS TERRITORY.** Additional territory adjoining a highway district and lying contiguous with and within one (1) or more counties may be added to and be included in the district, by the affirmative vote of a majority of the qualified electors of the additional territory voting on the question at an election held for that purpose, which vote shall be taken at an election on a date authorized in section 34-106, Idaho Code. Additional territory shall not be annexed to or included in the district unless annexation and inclusion shall be first approved by the commissioners of the county in which the area proposed to be annexed is located if it shall be deemed to be in the best public interest, and by the highway district commissioners of the existing district by resolution, entered on their minutes prior to the election on the question of annexation. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

**40-1625. ELECTION DATE WHERE TERRITORY LIES IN MORE THAN ONE COUNTY.** Where territory to be annexed lies in more than one (1) county the election shall be held on the same day as it is mutually determined by agreement between the commissioners of both counties concerned on a date authorized in section 34-106, Idaho Code. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

**40-1626. PETITION FOR ELECTION — ELECTION.** The election shall be conducted in accordance with the general election laws of the state. A petition for the election shall be initiated by not less than twenty-five (25) property owners, or all property owners if there are less than twenty-five (25) in the proposed area to be annexed. The proposed area to be annexed shall be set forth with clarity as to be specifically identified by a map of the area. The petition upon being signed shall be submitted to the commissioners of the highway district and to the commissioners concerned. The petition shall, within thirty (30) days after presentment, be either approved or rejected by the recorded motion of the commissioners in their minutes. Upon the petition being approved by the commissioners of the county in which the territory or a part is situated and the commissioners of the highway district, a certified copy of the petition, together with a certified copy of the resolution of the highway commissioners approving the petition for annexation and with the proposed election precinct boundaries and polling place, shall within ten (10) days be transmitted by the highway commissioners to the county clerk of the county or counties, in which the territory to be annexed lies. The commissioners in the county in which the territory lies shall then within sixty (60) days



## **Highway District Elections Selected Code Sections**

fix a time for the election on a date authorized in section 34-106, Idaho Code. The commissioners and county clerk shall do all things necessary for the holding of an election in conformity with the general election laws of the state. Upon the election being had the result shall be canvassed, declared and the result certified by the commissioners. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

**40-1627. MAJORITY VOTE REQUIRED APPROVING ANNEXATION — ACTION OF COMMISSIONERS.** If, after canvassing the election, a majority of the qualified electors of the additional territory voting are in favor of the annexation, then the commissioners must order that the additional area shall be annexed to the highway district and an order shall be entered in their minutes, and the area shall then constitute and be a part of the highway district. Where the area to be annexed lies in a county other than the county in which the election was held, duplicate copies of the result of the election, copy of the canvass and order annexing the area to the highway district shall be immediately transmitted by the county clerk of the county in which the election was held to the county clerk of the county in which the highway district lies, and shall be immediately approved by the commissioners and recorded in their minutes. (History: S.L. 1985, Ch. 253)

**40-1628. CERTIFICATION BY COMMISSIONERS OF ORDER APPROVING ANNEXATION.** The commissioners shall file one (1) certified copy of the order for record in the office of the county recorder of the county in which the highway district is situated, and shall transmit a certified copy of the order to the commissioners of the highway district of which the area is annexed. (History: S.L. 1985, Ch. 253)

**40-1630. PAYMENT OF COSTS OF ELECTION.** The costs of the election shall be paid by the county or counties conducting the election. (History: S.L. 1985, 253; S.L. 2009, Ch. 341)

### Title 40 - Highways and Bridges Chapter 17 - County Highway Reorganization

**40-1702. COUNTYWIDE ELECTION TO ADOPT METHOD OF SECONDARY HIGHWAY ADMINISTRATION — PROCEDURE.** (1) In any county where there is a petition for an election to adopt a new method of administration of the secondary highways in the county, the procedure outlined in this chapter shall be followed.

(2) The petitions signed by five percent (5%) of the qualified voters or twenty-five (25) persons, whichever is greater, of each highway district and the area served by a county road department, where applicable, within the county may be filed with the county clerk and upon the commissioners finding that the petitions have been properly signed and filed, cause the formation of a local highway study commission as provided in section 40-1712, Idaho Code, prior to submitting the matter to vote of the entire county at the next general election, providing that the next general election is not less than one hundred eighty (180) days from the filing of the petitions. All of the laws of the state relating to holding of elections at the county level shall apply to the holding of the election and the notice of election shall notify the electors of the issues to be voted upon at the election, and publication of a notice shall be in accordance with the provisions of title 34, Idaho Code. Public hearings within the county shall be held, as deemed advisable, by the highway study commission.

(3) The election shall be conducted in such a manner that the vote is canvassed separately in each of the existing highway districts and the area served by a county road department, where applicable.

(4) The county clerk in the notice of election shall indicate polling places as designated by the county commissioners for each precinct and/or district, as appropriate, to adequately provide for the vote at the election. Every qualified elector of the county may vote.

(5) The vote shall be canvassed by the county board of canvassers within the time specified in chapter

## **Highway District Elections Selected Code Sections**

12, title 34, Idaho Code. (History: S.L. 1958, Ch. 253; S.L. 1998, Ch. 415; S.L. 2009, Ch. 341)

**40-1703. SUBSEQUENT ELECTIONS.** Another election may be similarly called and held by the submission of petitions as provided by section 40-1702, Idaho Code, and any subsequent election shall not be held more often than six (6) years after the holding of any election submitting this question to the vote of the county. (History: S.L. 1985, Ch. 253; S.L. 1998, Ch. 415)

**40-1705. ORGANIZATION OF COUNTYWIDE HIGHWAY DISTRICTS — HIGHWAY DISTRICT COMMISSIONERS — APPOINTMENT — TERMS — ELECTION.** (1) Countywide highway districts may be organized under the laws applicable to highway districts and for county highway districts, new highway districts, consolidated or enlarged highway districts, and the number of highway commissioners to be elected shall be three (3). The formation of new districts shall be effected by the commissioners of the county so affected within sixty (60) days of the reorganization election, and upon the determination that a county highway system shall be reorganized as a countywide highway district, new highway districts, consolidation, enlargement or other modification, the original highway district commissioners shall, within seventy (70) days of the election, be appointed by the governor. A new highway district shall be divided by the commissioners into three (3) subdistricts as nearly equal in mileage, market value for assessment purposes, and population as practicable under the circumstances, for the purpose of determining each highway commissioner's district, and each commissioner for a highway district shall represent and be elected or appointed from the district in which he resides.

(2) Upon appointment, qualification and acceptance of duties as highway commissioners, those originally appointed shall, by lot, determine two (2) of the original appointed highway commissioners who shall serve for terms of original appointment for two (2) years, or until the next regular election for highway commissioners. The remaining highway commissioner shall serve for a period of four (4) years, or until the next succeeding election for highway commissioners. Thereafter, the highway commissioners elected shall be elected for four (4) year terms as their terms expire, thus providing a continuation in office of highway district commissioners, and providing for the staggered election of the commissioners in subsequent elections.

(3) Laws applicable to the election of highway commissioners shall apply to the conduct of highway district elections throughout the county, and the election for highway commissioners shall be on a nonpartisan basis.

(4) Where a countywide highway district, new highway district, or consolidated or enlarged district results from an election under this chapter, it shall be the duty of the governor, in the appointment of the original highway commissioners for the county, where there shall have been in existence at the time of the creation of any highway districts within the limits of the county to appoint whenever practicable, the existing highway commissioners as they shall qualify by residence in the territorial limits of the districts of the newly created highway district as a highway commissioner of the newly created highway district system. County commissioners, city mayors and city council members shall not be eligible to hold office as a highway district commissioner. (History: S.L. 1985, Ch. 253; S.L. 1998, Ch. 415)

**40-1713. MEETING OF HIGHWAY STUDY COMMISSION — SELECTION OF OPTION FOR SUBMISSION — ELECTION — IMPLEMENTATION OF OPTION — RETENTION OF EXISTING SYSTEM.** (1) The highway study commission shall meet at the county courthouse, at the call of the chairman, no later than one hundred fifty (150) days prior to the election called for by this chapter. At that meeting, or at any other meetings as may be necessary to make the decision, the commission shall analyze the options for administration for the county's secondary highways.

## **Highway District Elections Selected Code Sections**

(2) The options for the administration of the county's secondary highways are as follows:

(a) To establish a countywide highway system for the administration of the secondary highway system of the entire county, exclusive of those highways and streets within cities, with functioning street departments, by county commissioners;

(b) To establish a single countywide highway district for the administration of the secondary highway system of the entire county, exclusive of those highways and streets within cities with functioning street departments, independent of the administration of the county commissioners; and

(c) For the division of the county into not more than four (4) highway districts for the administration of the secondary highways of the county, exclusive of those highways and streets within cities, with functioning street departments, independent of the county commissioners.

(3) The highway study commission will, at least ninety (90) days prior to the election, select one (1) of those options for submission to the electorate at the election. The question to be submitted to the electorate shall be substantially as follows:

For the purpose of administering the secondary highway system of .... County, shall the county ?

Yes ....

No ....

(4) If a majority of the voters casting votes in each of the highway districts and the area served by the county road department, where applicable, approve the proposal submitted, the commissioners shall implement the option selected as provided by this chapter.

(5) If the proposal is defeated by the voters casting votes in each of the highway districts and the area served by the county road department, where applicable, the county shall retain its current system for the administration of its secondary highways. (History: S.L. 1985, Ch. 253; S.L. 1998, Ch. 415)

**40-1714. EXPENSES OF ELECTION.** In all counties where elections are held under the provisions of this chapter, commissioners shall pay expenses of the elections from the election fund of the county. (History: S.L. 1998, Ch. 415; S.L. 2009, Ch. 341)

### Title 40 - Highways and Bridges Chapter 18 - Dissolution of Highway Districts

**40-1801. DISTRICTS SUBJECT TO DISSOLUTION.** Any highway district of the state, except a single countywide highway district formed pursuant to chapter 14, title 40, Idaho Code, may be dissolved as provided in this chapter. Sections 40-1806 through 40-1821, Idaho Code, shall apply to any election and process for dissolution of a single countywide highway district. (History: S.L. 1985, Ch. 253; S.L. 2004, Ch. 361)

**40-1802. PETITION FOR DISSOLUTION — CONTENTS.** All proceedings for the dissolution of highway districts shall be initiated by a petition of twenty-five (25) or more qualified electors of the district, addressed to the commissioners of the county in which the district is situate, and which shall concisely state the grounds or reasons for the dissolution and contain a request for a hearing of the petition. (History: S.L. 1985, Ch. 253)

**40-1803. ORDER FOR HEARING UPON PETITION.** The petition shall be filed with the clerk of the commissioners and at its next regular meeting, or at any special meeting called for that purpose, and the commissioners shall by an order fix a time and place for the hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and hearing. (History: S.L. 1985, Ch. 253)

## **Highway District Elections Selected Code Sections**

**40-1804. NOTICE OF PETITION AND HEARING.** The commissioners shall require their clerk to cause a notice to be published in accordance with the provisions of section 40-206, Idaho Code, setting forth that a petition has been filed, the prayer of the petition and notice of the time and place when and where the petition will be heard, and further notice that any elector of the district may, prior to or at the time of the hearing, file with the clerk written objections to the proposed dissolution. (History: S.L. 1985, Ch. 253)

**40-1805. HEARING — ORDER FOR ELECTION.** At the time and place specified in the notice, the commissioners shall proceed to consider the petition and all written objections to it, and shall hear all persons in relation to it, and shall hear or take testimony as may be offered or as they desire. Upon the conclusion of the hearing which may be continued from day to day, if the commissioners determine that the district ought to be dissolved and that the dissolution would be to the best interest of the district, it shall enter an order directing that the question of dissolution of the district be submitted to the qualified electors of the district at an election to be held on the date authorized in section 34-106, Idaho Code, which is not less than thirty (30) days from and after the order. (History: S.L. 1998, Ch. 415; S.L. 2009, Ch. 341)

**40-1806. ELECTION OFFICERS — NOTICE OF ELECTION.** The county clerk shall appoint judges for the election, to be chosen from the electors of the district and the county commissioners shall by order establish polling places. The county clerk shall publish notice of the election in accordance with the provisions of section 34-1406, Idaho Code. The notice shall state the purpose of the election and the polling places. (History: S.L. 1998, Ch. 415; S.L. 2009, Ch. 341)

**40-1807. QUALIFICATIONS OF VOTERS.** Any person residing in the district possessing the qualifications required by law for a voter at any general election of the state shall be entitled to vote in the election. (History: S.L. 1985, Ch. 253)

**40-1808. CONDUCT OF ELECTIONS.** (1) The polls in all elections shall be presided over by the judges and clerks appointed by the county clerk.

(2) All elections shall be conducted in accordance with the provisions of title 34, Idaho Code. (History: S.L. 1998, Ch. 415; S.L. 2009, Ch. 341)

**40-1809. COUNTING VOTES — CANVASS — ORDER OF DISSOLUTION.** Immediately following the close of the polls at the time specified in the notices of election the votes shall be counted in accordance with the provisions of title 34, Idaho Code. The board of county commissioners shall canvass the returns as provided in chapter 12, title 34, Idaho Code, and in the event a majority of the votes cast in the district are in favor of dissolution, the county commissioners shall immediately make and enter an order declaring the district dissolved. (History: S.L. 1998, Ch. 415; S.L. 2009, Ch. 341)

**40-1810. EXPENSES OF DISSOLUTION — HOW BORNE AND PAID.** All expenses of proceedings to dissolve highway districts, including the posting and publication of notices of hearings on the petitions and of the election, the printing of ballots and compensation of judges and clerks of election, shall be borne by the county. (History: S.L. 1985, Ch. 253; S.L. 2009, Ch. 341)

## ***Hospital District Elections Frequently Asked Questions***

### **When are hospital district elections held?**

Elections of trustees of hospital districts are held on the third Tuesday of May, in the next odd-numbered calendar year after the organization of any district and every second year thereafter. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. *(34-106, 39-1330, Idaho Code)*

### **How many trustees are elected in a hospital district and what are their terms of office?**

There are seven (7) trustees in each hospital district. Trustees are elected by the qualified electors of the district. Each trustee is elected on a district wide basis and serves a term of six (6) years. *(34-104, 39-1326, 39-1330, Idaho Code)*

### **How do I know if I'm eligible to vote in a hospital district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The county clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. *(34-104, 34-1402, 39-1323, Idaho Code)*

### **What are the requirements if I want to run for hospital district trustee?**

A trustee candidate must be a resident of the hospital district and a qualified elector of the state of Idaho.

Candidates for election as a hospital district trustee file nominating petitions which include the name of the candidate, the position that the candidate is running for and signatures of at least five (5) electors from the district.

The Declaration of Candidacy and Petition of Candidacy forms are available from and are filed with the clerk of the hospital board. However, the forms are also available from the County Clerk's Election Office.

The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the hospital board has seven (7) days following the filing to verify the qualifications of the nominee and certify that the person is to be placed on the ballot. *(34-1404, 39-1326, 39-1330, Idaho Code; see Election Consolidation Calendar for dates)*

### **Who is responsible for administration of the election?**

County clerks administer hospital district elections in accordance with the provisions of Title 34, Chapter 14.

The county clerk conducts all of the elections for a hospital district and performs all necessary duties of the including, but not limited to, the publication of the notice of the filing deadline and the notice of the election, and preparation of the election calendar. *(34-1401, 39-1330, Idaho Code)*

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the clerk of the hospital board not less than forty-five (45) days before the election. The Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Election Office. *(34-1407, Idaho Code)*

## ***Hospital District Elections Frequently Asked Questions***

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a position, it is not necessary for the candidate to stand for election. The board of directors of the district declares the candidate elected and the secretary of the board of the district shall immediately make and deliver to such person a certificate of election. *(34-1407, 39-1330, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the hospital district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can hospital district trustees be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Any vacancy on the board is filled by the remaining members or member of the board. The appointee serves until the next biennial election. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the board of county commissioners of the county in which said district is situated shall fill such vacancy. *(39-1329, Idaho Code)*

**Hospital District Elections  
Selected Code Sections**

- 39-1319 DEFINITIONS
- 39-1320 ORGANIZATION OF HOSPITAL DISTRICT — PETITION — CONTENTS — FILING
- 39-1321 JOINT DISTRICTS IN ONE OR MORE COUNTIES
- 39-1322 NOTICE OF TIME OF HEARING ON PETITION — ORDER FIXING BOUNDARIES —  
APPEAL
- 39-1323 ELECTION IN PROPOSED DISTRICT — NOTICE — QUALIFICATIONS OF VOTERS
- 39-1324 ELECTION — MANNER OF CONDUCTING
- 39-1325 ELECTION RESULTS — CANVASS AND CERTIFICATION — ORDER ESTABLISHING  
DISTRICT
- 39-1325A PETITIONS FOR DISSOLUTION OF HOSPITAL DISTRICTS
- 39-1325B NONFUNCTIONING DISTRICT
- 39-1325C EFFECT OF DISSOLUTION
- 39-1326 BOARD OF TRUSTEES OF DISTRICT — QUALIFICATIONS OF MEMBERS
- 39-1327 OATHS AND BONDS OF BOARD MEMBERS
- 39-1328 ORGANIZATION OF BOARD — SEAL — DUTIES OF TREASURER — COMPENSATION  
OF MEMBERS — FINANCIAL STATEMENT
- 39-1329 MEETINGS — QUORUM — VACANCIES
- 39-1330 BIENNIAL ELECTION OF BOARD MEMBERS — TERMS OF OFFICE
- 39-1339 CREATION OF INDEBTEDNESS FOR WORKS, IMPROVEMENTS OR EQUIPMENT —  
ELECTION ON PROPOSED INDEBTEDNESS — INDEBTEDNESS OR LIABILITY WITHOUT  
ELECTION
- 39-1340 NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS
- 39-1341 CONDUCT OF ELECTION FOR PROPOSED INDEBTEDNESS
- 39-1342 INDEBTEDNESS INCURRED UPON FAVORABLE VOTE — RESUBMISSION OF  
PROPOSITION NOT RECEIVED FAVORABLY
- 39-1354 ANNEXATION OF TERRITORY NOT HAVING A TAX SUPPORTED HOSPITAL — PETITIONS  
AND SIGNATURE — ELECTION
- 39-1355 EXISTING TAX SUPPORTED HOSPITALS MAY CONSOLIDATE
- 39-1357 ADJUSTMENT OF BOUNDARY LINES OR CONSOLIDATION OF HOSPITAL DISTRICTS

**39-1319. DEFINITIONS.** A “hospital district” is one to furnish general hospital services, and together with such hospital services, nursing home services, or medical clinic services to the general public and all other such services as may be necessary for the care of the injured, maimed, sick, disabled, convalescent or long-term care patients. As used in sections 39-1318 through 39-1357, Idaho Code, “medical clinic” means a place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical and emergency care of acute and chronic conditions or injury.

The word “board” as used in this act shall mean the board of trustees of the district. A “qualified elector” of a district within the meaning of and entitled to vote under this act, is a person qualified to vote at general elections in this state, and who has been a bona fide resident of the district for at least thirty (30) days prior to any election in the district. A “taxpayer” within the meaning of and as used in this act is a person or the husband or wife of a person whose name appears on the tax rolls of the county and is there assessed with unexempted real or personal property owned and subject to taxation within the boundaries of the district.

Whenever the term “publication” is used in this act and no manner specified therefor, it shall be taken to mean once a week for three (3) consecutive weeks in at least one (1) newspaper of general circulation in the district. It shall not be necessary that publication be made on the same day of the week in each of the three (3) weeks, but not less than fourteen (14) days (excluding the first day of publication), shall intervene between the first publication and the last publication, and publication shall be complete on the

## **Hospital District Elections Selected Code Sections**

day of the last publication. (History: S.L. 1965, Ch. 173; S.L. 1976, Ch. 132; S.L. 1990, Ch. 354; S.L. 1993, Ch. 137)

**39-1320. ORGANIZATION OF HOSPITAL DISTRICT — PETITION — CONTENTS — FILING.** The organization of a hospital district shall be initiated by a petition filed with the board of county commissioners of the county of [in] which the said district is situated. Said petition shall be signed by not less than ten per cent (10%) of the qualified electors and taxpayers of the proposed district. The equalized county assessment list last preceding the presentation of the petition for the organization of the hospital district shall be sufficient evidence of the title for the purpose of this act, but other evidence may be received.

The petition shall set forth:

(1) The name of the proposed district consisting of a chosen name preceding the words "hospital district".

(2) A general statement of the purpose of the formation of said district.

(3) A general description of the boundaries of the district or territory to be included therein with such certainty to enable a property owner to determine whether or not his property is within the district.

(4) A map showing the general boundaries of such district in relation to outstanding natural monuments and terraine features.

(5) A prayer for the organization of the district.

Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one (1) petition. All petitions filed prior to the hearing on the first petition filed shall be considered by the board the same as though filed with the first petition placed on file.

Provided, however, that no such district shall be organized unless it shall appear that the boundaries of said district are wholly within the limits of a single county and that there shall be no unnatural extension of the boundaries of said district.

The petition together with all maps and other papers filed therewith shall at all proper hours be open to public inspection in the office of the clerk of the board of county commissioners between the date of their said filing and the date of an election to be held as hereinafter provided. (History: S.L. 1965, Ch. 173)

**39-1321. JOINT DISTRICTS IN ONE OR MORE COUNTIES.** A hospital district as provided in section 39-1320 may be organized where it appears that said district will be within the boundaries of one (1) or more counties, where all the other requirements provided in section 39-1320 have been met, and the county commissioners of each county in which such district will be formed shall affirmatively find that the public welfare of that portion of the county will be served by the inclusion thereof in such joint county district, that such district is not an unnatural extension of a service district for hospital services, and that the petition for such district has been signed by not less than 10% of the qualified electors and taxpayers of that portion of the proposed district lying within the county. (History: S.L. 1965, Ch. 173)

**39-1322. NOTICE OF TIME OF HEARING ON PETITION — ORDER FIXING BOUNDARIES — APPEAL.** When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition which shall not be less than four (4) nor more than six (6) weeks from the date of the presentation and filing of such petition. A notice of time of such hearing shall be published by said board once each week for three (3) successive weeks previous to the time set for such hearing in a newspaper published within the county in which said district is situated. Said notice shall state that a hospital district is proposed to be organized giving the proposed boundaries thereof and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any objection to the organization



## **Hospital District Elections Selected Code Sections**

of such district, the proposed boundaries thereof or the including or excluding of any real property, therein or therefrom. After hearing and considering any and all objections, if any such be interposed, the county commissioners shall thereupon make an order, either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided in this act, and a map showing the boundaries of such proposed district, as finally fixed and determined by the board of county commissioners, shall be prepared and filed in the office of the clerk of said board. Any person aggrieved by said order, or any taxpayer within said proposed district may take an appeal from said order establishing the boundaries of said district, in the manner provided by sections 31-1509, 31-1510, 31-1511, and 31-1512, Idaho Code, on questions of both law and fact. (History: S.L. 1965, Ch. 173)

**39-1323. ELECTION IN PROPOSED DISTRICT — NOTICE — QUALIFICATIONS OF VOTERS.** Such petition may be filed with the clerk of the board of county commissioners at any time, and on such filing and after the county commissioners have made an order finally fixing and determining the boundaries of the proposed district, and have made and entered an order calling an election to be held, subject to the provisions of section 34-106, Idaho Code, in said district, said clerk shall cause to be published a notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Provided, however, if an appeal is taken from such order establishing the boundaries, such election shall not be held until after the determination of such appeal. Such notice shall plainly and clearly designate the boundaries in or the boundaries of said districts, and shall state the name of the proposed districts as designated in the petition.

Such notice shall be published once not less than twelve (12) days prior to the election, and a second time not less than five (5) days prior to such election in a newspaper published within the county as aforesaid. At such election the voters shall vote for or against the organization of the district. No person shall be entitled to vote at any election held under the provisions of this chapter unless he or she shall possess all the qualifications required of electors under the general laws of the state and be a resident of the proposed district. (History: S.L. 1965, Ch. 173; S.L. 1995, Ch. 118)

**39-1324. ELECTION — MANNER OF CONDUCTING.** Such election shall be held and conducted in accordance with the general election laws of the state, including the provisions of chapter 14, title 34, Idaho Code.

The board of county commissioners shall establish as many election precincts within such proposed district as may be necessary, and define the boundaries thereof. The county clerk shall appoint judges of election, one (1) of whom shall act as clerk for each such election precinct who shall perform the same duties as judges of election under the general laws of the state, and the result of such election shall be certified, canvassed and declared by the board of county commissioners. The reasonable compensation of said judges and clerks of election, and the expenses of publication of notices, printing of ballots and furnishing of supplies for the election shall be paid by the petitioners, and to this end the board of county commissioners are empowered to require the deposit of all estimated costs in advance of such election. (History: S.L. 1965, Ch. 173; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**39-1325. ELECTION RESULTS — CANVASS AND CERTIFICATION — ORDER ESTABLISHING DISTRICT.** Immediately after any election for voting upon the organization of a hospital district, the judges of said election shall certify the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall, at its next regular meeting, proceed to canvass the votes cast at such election, and if upon such canvass it shall appear that one half (1/2) or more of the votes cast at such election are “... hospital district, no.”, then a record of that fact shall be duly entered upon the

## **Hospital District Elections Selected Code Sections**

minutes of said board, and all proceedings in regard to the organization of said district shall be void. If it shall appear, upon such canvass, that more than one half (1/2) of the votes cast at such election are “.... hospital district, yes.”, the said board shall by order entered on its minutes, declare such territory duly organized as a hospital district under the name designated in the petition.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and exclusively establish the regular organization of the said district against all persons, except the state of Idaho in an action in the nature of a writ of quo warranto commenced by the attorney general within thirty (30) days after the date of said order declaring such district organized, as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

Said board shall cause one (1) copy of such order duly certified to be immediately filed for record in the office of the county recorder in the county in which such district is situated and shall transmit to the governor one (1) certified copy thereof.

From and after the date of such filing of said order of the board of county commissioners, declaring such territory duly organized as a hospital district, the organization of such district shall be completed, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation. (History: S.L. 1965, Ch. 173)

**39-1325A. PETITIONS FOR DISSOLUTION OF HOSPITAL DISTRICTS.** (1) Proceedings for the dissolution of a hospital district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to ten percent (10%) of the qualified electors and taxpayers of the district, the same percentage required for the organization of the district, but not earlier than four (4) years after the date of its establishment.

(2) The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1) county is involved. The county clerk shall publish notice and the county commissioners shall hold a hearing on the matter. The hearing and election shall be held in accordance with the terms and provisions of title 34, Idaho Code. The disposition of hospital district assets on dissolution and the provision for payment of district indebtedness shall be made in accordance with the provisions of sections 63-4105 and 63-4106, Idaho Code.

(3) If the hospital district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it be determined that the proposition has been approved, the board of county commissioners of each county shall enter its order to that effect, subject to the provisions of section 39-1325C, Idaho Code, and the order shall by them be made a matter of record. (History: S.L. 1988, Ch. 173; S.L. 1993, Ch. 137; S.L. 1995, Ch. 118; S.L. 2004, Ch. 263; S.L. 2009, Ch. 341)

**39-1325B. NONFUNCTIONING DISTRICT.** Any hospital district which fails or has ceased to function for two (2) or more years may be dissolved by the board or boards of county commissioners of the county or counties in which it is located. The county commissioners may initiate such action by resolution subject to the provisions of section 39-1325C, Idaho Code. (History: S.L. 2004, Ch. 263)

**39-1325C. EFFECT OF DISSOLUTION.** (1) A dissolved hospital district continues its existence under the supervision of the board or boards of county commissioners of the county or counties in which the district is located, but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including the power to levy property taxes pursuant to the provisions of this chapter.

(2) The disposition of such property shall be governed by the provisions of section 63-4105, Idaho Code.

## **Hospital District Elections Selected Code Sections**

(3) Upon completion of winding up and liquidating the district's business and affairs, the commissioners shall enter a final order terminating the district and shall notify in writing the social security administrator at the Idaho state controller's office within ninety (90) days of the dissolution. (History: S.L. 2004, Ch. 263)

**39-1326. BOARD OF TRUSTEES OF DISTRICT — QUALIFICATIONS OF MEMBERS.** The board of trustees of such hospital district shall consist of seven (7) residents of the district who shall be elected or appointed as herein provided. Immediately following the establishment of a hospital district, the commissioners in the county in which the same is established shall appoint the seven (7) members of the first board, three (3) members to act until the first biennial election, two (2) until the second biennial election, and two (2) until the third biennial election, all of whom shall serve until the election and qualification of their successors. Upon a unanimous vote, the board of trustees may also appoint not more than two (2) additional members to serve as trustees for the purpose of obtaining necessary and specialized skills as determined by the board of trustees to assist board deliberations and decision-making. Members who are appointed by the board shall serve for a term not to exceed six (6) years. Such appointed board members shall serve at the pleasure of the board and may be removed with or without cause by a majority vote of the elected members of the board. Appointed board members shall have the same duties, oaths and obligations as elected board members; provided however, that an appointed board member shall not be entitled to vote on any decision to levy a tax pursuant to this chapter.

No person shall be qualified to serve as a trustee of a district organized under the provisions of this chapter unless he or she shall be a resident of the hospital district and a qualified elector of the state of Idaho. (History: S.L. 1965, Ch. 173; S.L. 1973, Ch. 99; S.L. 2016, Ch. 287)

**39-1327. OATHS AND BONDS OF BOARD MEMBERS.** Whenever a district has been declared duly organized the members of the board shall qualify by filing with the clerk of the board of county commissioners their oaths of office, and corporate surety bonds at the expense of the district in an amount not to exceed one thousand dollars (\$1,000) each, the form thereof to be fixed and approved by the board of county commissioners conditioned for the faithful performance of their duties as trustees. (History: S.L. 1965, Ch. 173)

**39-1328. ORGANIZATION OF BOARD — SEAL — DUTIES OF TREASURER — COMPENSATION OF MEMBERS — FINANCIAL STATEMENT.** After taking oath and filing bonds, the board shall choose one (1) of its members as chairman of the board and president of the district, and shall elect a secretary and treasurer of the board and of the district who may or may not be members of the board. The secretary and treasurer may be one (1) person. Such board shall adopt a seal and the secretary shall keep in a well bound book a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection by all owners of real property in the district as well as to all other interested parties.

The treasurer shall keep strict and accurate accounts of all moneys received by and disbursed for and on behalf of the district in permanent records. He shall file with the board of trustees of the district, at the expense of the district, a corporate fidelity bond in an amount to be fixed by the board of trustees, in any case not less than ten thousand dollars (\$10,000), conditioned on the faithful performance of the duties of his office.

Each member of the board may receive as compensation for his services, a sum not in excess of six hundred dollars (\$600) per annum, payable monthly. Such annual sum shall be fixed by the board, by resolution adopted by majority vote, at a regular monthly meeting in advance of the fiscal year in which it is to become effective. In addition, each member of the board shall receive the amount of his actual and necessary expenses incurred in the performance of his official duties as authorized by the board of trustees. No member of the board shall receive any compensation as an employee of the district or otherwise, other

## **Hospital District Elections Selected Code Sections**

than that herein provided, and no member of the board shall be interested in any contract or transaction with the district except in his official representative capacity.

It shall be the duty of the board of trustees to cause an audit to be made of all financial affairs of the district during each fiscal year which audit shall be made within one hundred twenty (120) days following the end of the fiscal year. A financial statement shall be certified by the person making such audit, which shall be published in the newspaper of general circulation in the district in one (1) issue not more than thirty (30) days following the audit; such audit shall be made by registered accountant or certified public accountant, who is not otherwise employed by the district.

The court having jurisdiction of the district shall have the power to remove directors for cause shown on petition, notice and hearing. (History: S.L. 1965, Ch. 173; S.L. 1977, Ch. 101; S.L. 1981, Ch. 100)

**39-1329. MEETINGS — QUORUM — VACANCIES.** The board shall meet regularly once each month at a time and place to be designated by the board. Special meetings may be held as often as the needs of the district require on notice to each member of the board. A majority of the members of the board shall constitute a quorum at any meeting. Any vacancy of an elected member on the board shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election, when the vacancy shall be filled by election. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the board of county commissioners of the county in which said district is situated shall fill such vacancy. In the case of a vacancy on the board of an appointed member, a majority of the board shall determine whether to fill the vacant position. (History: S.L. 1965, Ch. 173; S.L. 2016, Ch. 287)

**39-1330. BIENNIAL ELECTION OF BOARD MEMBERS — TERMS OF OFFICE.** On the third Tuesday of May in the next odd-numbered calendar year after the organization of any district, and on the third Tuesday of May every second year thereafter, an election shall be held which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized and each sixth year thereafter there shall be elected by the qualified electors of the district three (3) members of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for a term of six (6) years; at the third biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for terms of six (6) years.

The county clerk shall provide for holding such elections and shall appoint judges to conduct it; the county clerk shall give notice of election by publication and shall arrange such other details in connection therewith as the board may direct. The returns of the election shall be certified to and shall be canvassed and declared by the board of county commissioners. The candidate or candidates according to the number of directors to be elected, receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a director's position, it shall not be necessary for the candidate to stand for election, and the board of directors of the district shall declare such candidate elected as a director, and the secretary of the board of the district shall immediately make and deliver to such person a certificate of election.

For the purpose of achieving an orderly transition to a term of six (6) years and to hold trustee elections in odd-numbered years, the following schedule shall be followed:

- (a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (b) For trustees elected in 2006, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall be six (6) years and thereafter those terms shall be for six (6) years;

## **Hospital District Elections Selected Code Sections**

- (c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (d) For trustees elected in 2008, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years;
- (f) For trustees elected in 2010, their terms shall expire in 2017 and the terms for each of those elected in 2017 shall be six (6) years and thereafter those terms shall be for six (6) years. (History: S.L. 1965, Ch. 173; S.L. 1995, Ch. 118; S.L. 1995, Ch. 154; S.L. 2009, Ch. 341; S.L. 2011, Ch. 11)

### **39-1339. CREATION OF INDEBTEDNESS FOR WORKS, IMPROVEMENTS OR EQUIPMENT — ELECTION ON PROPOSED INDEBTEDNESS — INDEBTEDNESS OR LIABILITY WITHOUT ELECTION.**

(1) Whenever the board of the hospital district shall by resolution determine that it is in the interest of said district and in the public interest or necessity to purchase, contract, lease or construct or otherwise acquire facilities, equipment, technology and real property for health care operations or make any contract with the United States or other persons or corporations, public or private, municipalities or governmental subdivisions to carry out the said public works, acquisitions, improvements, objects or purposes of said district requiring the creation of an indebtedness payable out of taxes of five hundred thousand dollars (\$500,000) or more, and in any event when the indebtedness will exceed the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness payable out of taxes to the qualified electors of the district at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose. The declaration of public interest or necessity, herein required, and the provision for the holding of such election may be included within one (1) and the same resolution, which resolution, in addition to such declaration of public interest or necessity shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated costs of the works, improvements, or medical or business equipment, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of holding the same in accordance with the provisions of title 34, Idaho Code, and the method of voting for or against the incurring of the proposed indebtedness; such resolution shall designate the polling place or places and the county clerk shall appoint judges, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of the market value for assessment purposes of the real and personal property within the said district, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election, provided, however, that such bonds shall not be issued, nor shall any indebtedness be incurred, at any time that there shall be a bond issue outstanding and unpaid for the construction, acquisition or maintenance of a county hospital in the county in which such district is organized.

(2) No election shall be required for any lease or other transaction entered into between the hospital district and the Idaho health facilities authority. Notwithstanding any other provision, the hospital district shall be entitled to enter into a lease or other transaction regardless of the amount involved with the Idaho health facilities authority upon determination by the board of the hospital district that it is in the interest of the hospital district and best interests of the public to enter into such lease or other transaction.

(3) Notwithstanding subsection (1) or (2) of this section and provided that no property tax revenues shall be used for payment of indebtedness authorized by this subsection, district hospitals, ancillary to their operations and in furtherance of health care needs in their service areas, may incur indebtedness or liability without an election to purchase, contract, lease or construct or otherwise acquire facilities, equipment, technology and real property for health care operations. (History: S.L. 1965, Ch. 173; S.L.

**Hospital District Elections  
Selected Code Sections**

1971, Ch. 25; S.L. 1976, Ch. 132; S.L. 1977, Ch. 60; S.L. 1980, Ch. 350; S.L. 1983, Ch. 133; S.L. 1990, Ch. 354; S.L. 1991, Ch. 73; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341; S.L. 2011, Ch. 185)

**39-1340. NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS.** When such election is ordered to be held, subject to the provisions of section 34-106, Idaho Code, the board shall direct the county clerk as provided in section 34-1406, Idaho Code, to give notice by publication once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election published in one (1) or more newspapers within the district, if a newspaper is published therein. Said notices shall recite the action of the board in deciding to bond the district, the purpose thereof and the amount of the bonds supposed to be issued, the estimated costs of the works or improvements as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness, and shall also specify the date of the election and the time during which the polls shall be open. Notices shall also list the polling places. (History: S.L. 1965, Ch. 173; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**39-1341. CONDUCT OF ELECTION FOR PROPOSED INDEBTEDNESS.** The county clerk shall conduct the election in a manner prescribed by law in title 34, Idaho Code. The returns thereof shall be canvassed and the results thereof shall be declared by the board of county commissioners. (History: S.L. 1965, Ch. 173; S.L. 2009, Ch. 341)

**39-1342. INDEBTEDNESS INCURRED UPON FAVORABLE VOTE — RESUBMISSION OF PROPOSITION NOT RECEIVED FAVORABLY.** In the event that it shall appear from said returns that two-thirds (2/3) of the qualified electors of the district voting at such election shall have voted in favor of such proposition or any proposition submitted hereunder at such election, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract or issue and sell bonds of the district, as the case may be, all for the purpose or purposes, and object or objects provided for in the propositions submitted hereunder and in the resolution therefor and in the amount so provided at a rate of interest not exceeding the rate of interest recited in such resolution. The submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same, or other propositions, at subsequent election or elections called for such purpose at any time, held subject to the provisions of section 34-106, Idaho Code. (History: S.L. 1965, Ch. 173; S.L. 1971, Ch. 25; S.L. 1995, Ch. 118)

**39-1354. ANNEXATION OF TERRITORY NOT HAVING A TAX SUPPORTED HOSPITAL — PETITIONS AND SIGNATURES — ELECTION.** (1) Any area contiguous to a hospital district which does not support another tax supported hospital may become annexed to the district by petition and election.

(2) A petition for annexation shall comply with the requirements of section 39-1320, Idaho Code, in the area seeking to become annexed to the hospital district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the hospital district may approve or disapprove such petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When it has received notice of approval of the board of trustees of the district, the board of county commissioners in the county or counties in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area proposed to be annexed. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided in sections 39-1323, 39-1324 and 39-1325, Idaho Code. The ballot shall bear the question: "Shall .... become part of the .... hospital district .... Yes" and "Shall .... become part of the .... hospital district .... No" each followed by a box in which the voter may express his choice by marking a cross. The proposal shall

## **Hospital District Elections Selected Code Sections**

be deemed approved only if the majority of the votes cast is in the affirmative.

(4) If the proposal has been approved at the election, the board of county commissioners in each county in which the district is located following annexation shall enter its order amending the boundaries of the district, and a copy shall be transmitted to the board of trustees of the hospital district. Annexation shall be effective as of the date of the last such order entered.

(5) Such other notices as may be required by law shall be filed by the board of trustees of the hospital district with the state tax commission within ten (10) days of the effective date of the change, including a legal description and map of the altered boundaries.

(6) Addition of new territory to an existing hospital district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the term for which elected. When a vacancy occurs, appointment shall be made as provided in section 39-1326, Idaho Code. (History: S.L. 1993, Ch. 137)

**39-1355. EXISTING TAX SUPPORTED HOSPITALS MAY CONSOLIDATE.** The ownership and operation of any municipal, city/county, county, district, or tax supported community hospital or medical clinic may be consolidated with an established hospital district by majority vote of the qualified electors of the established hospital district and of the political subdivision having jurisdiction over such other tax supported hospital according to procedure set forth in section 39-1354, Idaho Code. A true copy of the petition and the established hospital district board's notice of approval or disapproval shall be sent to the governing body of the political subdivision having jurisdiction over a petitioning hospital. A true copy of that petition shall, at the same time, be sent to the governing body of the nonpetitioning hospital. When the notice carries the approval of the boards, or other governing bodies of both hospitals, that governing body shall conduct the election and give notice of the results to the hospital district board and the relevant boards of county commissioners as provided in section 39-1354, Idaho Code. As a result of any such consolidation, the boundaries of the hospital district remaining after consolidation shall be expanded to include the political subdivision which previously had jurisdiction over the consolidated hospital or medical clinic. (History: S.L. 1993, Ch. 137)

**39-1357. ADJUSTMENT OF BOUNDARY LINES OF CONSOLIDATION OF HOSPITAL DISTRICTS.** When there are two (2) or more hospital districts, which have at least one (1) common boundary, the boards of trustees of the hospital districts, meeting together, may determine that it is in the best interest of the qualified electors and prospective hospital patients that the boundary lines be adjusted or that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing hospital districts, the names of the existing hospital districts, and praying for the reorganization of the territory therein described as one (1) or more hospital districts to be known as the "... hospital district or districts" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the hospital boards upon majority approval of the respective boards involved in the boundary adjustment or consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in each of the counties affected who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in each of the counties affected shall proceed with the hearing and resolution as outlined in sections 39-1320, 39-1321 and 39-1322, Idaho Code, and an election in the manner required for the establishment of a hospital district.

In the order granting the petition and adjusting the boundaries or establishing consolidation, the board of county commissioners in all counties affected shall certify the new boundaries and the name of the district or districts.

A copy of the order shall be transmitted to the board of trustees of the hospital districts involved.

## ***Hospital District Elections Selected Code Sections***

Such other notices as may be required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries to be filed with the state tax commission within ten (10) days of the effective date of the change.

Following boundary adjustment, the board of county commissioners within five (5) days shall take action to reaffirm members of the board of trustees, or to appoint members of the board or boards, who shall be chosen from the members of the boards initiating the boundary adjustment to the extent possible. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as provided in section 39-1326, Idaho Code. The board or boards of trustees shall be sworn by a member of the board of county commissioners.

Following a consolidation, the board of county commissioners within five (5) days shall appoint the members of the first board of trustees, who shall be chosen from the members of the boards of the consolidated districts and who shall serve until the next annual election of trustees or until their successors are elected and qualified. The board shall be sworn by a member of the board of county commissioners. (History: S.L. 1993, Ch. 137)



## ***Library District Elections Frequently Asked Questions***

### **When are library district elections held?**

Trustee elections are held on the third Tuesday in May in odd numbered years. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (33-2715, 34-106, 34-1401, *Idaho Code*)

### **How many trustees are elected in a library district and what are their terms of office?**

Each library district is governed by a board of five (5) trustees. Each library district may be divided into five trustee zones with each zone having approximately the same population. To the maximum extent possible, boundaries of the trustee zones shall follow the existing boundaries of county precincts.

The trustee must be a qualified elector of the district and, if trustee zones have been established, be a resident of the trustee zone. The term of office for a trustee is six (6) years. The terms of office are staggered. (33-2715, 33-2718, *Idaho Code*)

### **How do I know if I'm eligible to vote in a library district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The county clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. (34-104, 34-1402, *Idaho Code*)

### **What are the requirements if I want to run for library district trustee?**

Trustee candidates must be electors of the district and, if trustee zones have been established, a resident of the trustee zone.

Candidates for election as a library district trustee file nominating petitions which include the name of the candidate, the subdistrict that the candidate is running in (if applicable) and signatures of at least five (5) electors from the district or trustee zone if, applicable.

The Declaration of Candidacy and Petition of Candidacy forms are available from and filed with the library district. However, the forms are also available from the County Clerk's Election Office. Nominations shall be filed not later than 5 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. (33-2715, 34-1404, *Idaho Code*; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

The county clerk has authority to administer library district elections in accordance with the provisions of Title 34, Chapter 14, *Idaho Code*. (33-2716, 34-1401, *Idaho Code*)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the clerk of the library board not less than forty-five (45) days before the election. Declaration of Intent forms can be obtained from the clerk of the district or the County Clerk's Election Office. (33-2717A, 34-1407, *Idaho Code*)

## ***Library District Elections Frequently Asked Questions***

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a position to be filled, no election will be held. No later than seven (7) days before the date of the election, the library board declares the candidate to be elected and the clerk of the library board makes and delivers certificate of election to the candidate. *(33-2717, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the library district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can library district trustees be recalled?**

Yes. Notwithstanding the limitations of Chapter 17 title 34, Idaho Code, each library district trustee is subject to recall following procedures pursuant to section 34-1702(5), Idaho Code. Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee must be a qualified elector at the time of the election and a resident of the area involved for thirty (30) days prior to the date of the election. To recall any trustee, a majority of the votes cast at the recall election must be in favor of the recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district. If no district election has been held in the last six (6) years, the petition must be signed by twenty percent (20%) of the number of electors registered to vote in the district or school trustee zone at the time the petition is filed. *(33-2716, 34-1702, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring in the office of library trustee, other than by the expiration of the term of office, is filled by the library board within sixty (60) days of the declaration of the vacancy. Appointment is until the next election of trustees following the appointment where a trustee shall be elected to fill the unexpired term of the office which was filled by appointment.

In the event that the board of trustees fails to exercise their authority, appointments shall be made by the board of county commissioners of the home county in which the district is located within thirty (30) days after the expiration of the sixty (60) days allowed for trustees for this action. *(33-2716, Idaho Code)*

## ***Library District Elections Selected Code Sections***

- 33-2702 DEFINITIONS
- 33-2703 LIBRARY DISTRICTS — TERRITORY — ESTABLISHMENT — LIMITATIONS
- 33-2704 PETITION — VERIFICATION — NOTICE AND HEARING
- 33-2705 CONDUCT OF ELECTION
- 33-2706 ESTABLISHMENT OF LIBRARY DISTRICT EMBRACING MORE THAN ONE COUNTY
- 33-2707 ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT — PETITIONS AND SIGNATURE — ELECTION
- 33-2708 ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT — ALTERNATE METHOD
- 33-2709 EXISTING TAX SUPPORTED CITY LIBRARIES MAY JOIN LIBRARY DISTRICTS
- 33-2711 CONSOLIDATION OF LIBRARY DISTRICTS
- 33-2711A ADJUSTMENT OF BOUNDARY LINES BETWEEN EXISTING PUBLIC LIBRARY DISTRICTS
- 33-2713 DISSOLUTION OF LIBRARY DISTRICT
- 33-2715 BOARD OF TRUSTEES — SELECTION — NUMBER — QUALIFICATIONS — TERM — OATH — APPOINTMENT OF FIRST BOARD
- 33-2716 BOARD OF TRUSTEES — NOMINATION AND ELECTION — RECALL — VACANCIES
- 33-2717 BOARD OF TRUSTEES — ONE NOMINATION — NO ELECTION
- 33-2717A DECLARATION OF INTENT FOR WRITE-IN CANDIDATE
- 33-2718 CREATION OF TRUSTEE ZONES
- 33-2728 BOND ELECTION
- 33-2737 SCHOOL-COMMUNITY LIBRARY DISTRICTS
- 33-2738 SCHOOL-COMMUNITY LIBRARY DISTRICT — BOARD OF TRUSTEES — TRUSTEE ZONES
- 33-2740 SCHOOL-COMMUNITY LIBRARY DISTRICTS — CONSOLIDATION — REORGANIZATION INTO LIBRARY DISTRICTS

**33-2702. DEFINITIONS.** As used in this chapter:

(1) “Administrative only district” is a library district that does not serve the public directly and has no direct service outlets or collections, but which contracts with other library entities to provide various public library services.

(2) “City library” means a library established by a city ordinance and operating under the provisions of chapter 26, title 33, Idaho Code.

(3) “Home county” means the county where the designated district headquarters is located when a public library district’s boundaries include territory located in more than one (1) county.

(4) “Library director” or “library director team” means an employee or group of employees of a public library district charged with the administration and management of library services for that district.

(5) “Public library district trustee” means a qualified elector living within the boundaries of a public library district who is elected or appointed temporarily to fulfill the duties described in this chapter related to the governance of a public library district.

(6) “Public library service” means the provision of planned collections of materials and information services provided by a library established under the provisions of chapter 26 or 27, title 33, Idaho Code, and paid for primarily through tax support provided under these statutes. These services shall be provided at a facility, accessible to the public at regularly scheduled hours and set aside for this purpose. The services shall be governed by a citizen board appointed or elected for this purpose and shall be administered and operated by paid staff who have received appropriate training in library skills and management. The services shall meet standards established by the board of library commissioners.

(7) “Qualified elector” means any person voting, or offering to vote, at an election to create a library

## ***Library District Elections*** ***Selected Code Sections***

district, add territory thereto, or elect trustees thereof. A qualified elector must be, at the time of the election, a resident of the area involved for thirty (30) days prior to the date of the election, registered and an elector within the meaning of section 2, article VI, of the Constitution of the state of Idaho. (History: S.L. 1963, Ch. 188; S.L. 1965, Ch. 255; S.L. 1993, Ch. 303; S.L. 1996, Ch. 71; S.L. 2002, Ch. 312; S.L. 2006, Ch. 235)

**33-2703. LIBRARY DISTRICTS — TERRITORY — ESTABLISHMENT — LIMITATIONS.** A library district may be established by vote of the qualified electors of the proposed district in an election called and held as provided by this chapter, with the following limitations:

(1) The district may include incorporated or unincorporated territory or both in one (1) or more counties and may include any of the area thereof except as may be excluded by this section, and as finally fixed and determined by the board of county commissioners.

(2) The territory of the district shall be continuous, and no territory of an incorporated municipality shall be divided.

(3) In the initial establishment of a library district the following may be excluded:

(a) A municipality which is already providing library service as established according to section 33-2603, Idaho Code; or

(b) A library district which is already providing library service as established in accordance with the provisions of this chapter.

(4) If, subsequent to the establishment of a library district, any area thereof is annexed to a municipality which maintains a tax-supported library, this area shall cease to be a part of the library district and the city council of the municipality shall so notify the board of county commissioners.

(5) Any proposed library district shall have a population of more than one thousand five hundred (1,500) and an annual budget of not less than twenty-five thousand dollars (\$25,000) from ad valorem revenues. Any proposed library district not meeting the above criteria may apply to the board of library commissioners for an exemption. (History: S.L. 1963, Ch. 188; S.L. 1967, Ch. 63; S.L. 1990, Ch. 378; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235)

**33-2704. PETITION — VERIFICATION — NOTICE AND HEARING.** (1) A petition or petitions, signed by fifty (50) or more qualified electors residing in the proposed library district, giving the name of the proposed district, describing the boundaries thereof including a map prepared in a draftsmanlike manner, and praying for the establishment of the territory therein described as a public library district, shall be filed with the clerk or clerks of the boards of county commissioners of the counties in which the proposed district is situated.

The petition or petitions shall be verified by at least one (1) qualified elector, which verification shall state that the affiant knows that all of the parties whose names are signed to the petition are qualified electors of the proposed district, and that their signatures to the petition were made in his presence. The verification may be made before any notary public.

(2) When the petition or petitions are presented to the board of county commissioners and filed in the office of the clerk of the board, the board shall set the time for a hearing, which time shall be not less than three (3) nor more than six (6) weeks from the date of the presentation and filing of the petition. Notice of the time of hearing shall be published by the board at least once a week for two (2) weeks prior to the time set for the hearing, in a newspaper of general circulation within the county in which the proposed district is situated.

(3) The notice shall state that a library district is proposed to be established, giving the proposed boundaries and name thereof, and that any resident elector within the proposed boundaries of the proposed district may appear and be heard in regard to:

(a) The form of the petition;

## **Library District Elections Selected Code Sections**

- (b) The genuineness of the signatures;
- (c) The legality of the proceedings; and
- (d) Any other matters in regard to the creation of the library district.

(4) Concurrently with the notice of hearing, the board of county commissioners shall notify, in writing, the governing body of any tax supported library within the boundaries of the proposed library district. If any governing body decides that it is not in the best interest of library services to be included within the proposed library district, they shall present a resolution stating this to the county commissioners, not less than one (1) week prior to the date of hearing.

(5) No later than ten (10) days after the hearing, the board of county commissioners shall make an order thereon with or without modification, based upon the public hearing and their determination of whether the proposed library district would be in keeping with the declared public policy of the state of Idaho in regard to library districts as more particularly set forth in section 33-2701, Idaho Code, and, shall accordingly fix the boundaries and certify the name of the proposed district in the order granting the petition. The boundaries so fixed shall be the boundaries of the district after its establishment is completed as provided in this chapter. (History: S.L. 1963, Ch. 188; S.L. 1989, Ch. 132; S.L. 1990, Ch. 378; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71)

**33-2705. CONDUCT OF ELECTION.** Upon the county commissioners having made the order referred to in subsection (5) of section 33-2704, Idaho Code, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held for the purpose of determining whether or not the proposed library district shall be established under the provisions of this chapter. The date of this election shall be the next uniform election date as provided for in section 34-106, Idaho Code. Whenever more than one (1) petition is presented to the county commissioners calling for an election to create library districts, the first presented shall take precedence. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided for in chapter 14, title 34, Idaho Code, and under the general election laws of the state of Idaho. The ballot shall contain the words “(Name) Library District—Yes” and “(Name) Library District—No,” each followed by a box wherein the voter may express his choice by marking a cross “X.” The board or boards of election shall make returns and certify the results to the boards of county commissioners within three (3) days after the election, and the board of county commissioners shall, within seven (7) days after the election, canvass the returns. If a majority of all votes cast be in the affirmative, the board of county commissioners shall, within seven (7) days after the returns have been canvassed, enter an order declaring the library district established, designating its name and boundaries including a map prepared in a draftsmanlike manner. The board of county commissioners shall transmit a copy of the order to the county recorder, county assessor, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held. A copy of the order shall also be transmitted to the board of library commissioners. (History: S.L. 1965, Ch. 255; S.L. 1967, Ch. 93; S.L. 1989, Ch. 132; S.L. 1990, Ch. 378; S.L. 1993, Ch. 303; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235)

**33-2706. ESTABLISHMENT OF LIBRARY DISTRICT EMBRACING MORE THAN ONE COUNTY.** When the proposed library district embraces more than one (1) county, the petition and procedure for praying for the establishment of the district shall be carried forward in each county as though that county were the only county affected. Each petition shall designate the same home county for the proposed district.

The board of county commissioners of the home county shall advise with the board of county commissioners in any other county affected to the end that the election shall be held in each county on the same day. The board of county commissioners in each county shall proceed in the conduct of the election as though the election were being held only in that county as set forth in section 33-2705, Idaho

## **Library District Elections Selected Code Sections**

Code. After the canvass of the returns, the results in each other county shall be certified to the board of county commissioners of the home county, together with all ballots and tally sheets. The board of county commissioners of the home county shall canvass all returns and certify the results of the election to the board of county commissioners of any other county affected. The proposal shall be deemed approved only if a majority of all votes cast in each county were cast in the affirmative. If this is the case, the board of county commissioners of the home county shall enter an order declaring the library district to be created, designating its name and boundaries, including a map prepared in a draftsmanlike manner. A certified copy of the order shall be transmitted by the board of county commissioners to the county recorder, the county assessor and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held. A copy of this order shall also be transmitted to the board(s) of county commissioners of any other county affected, which shall enter the order in its minutes. A copy of this order shall also be transmitted to the board of library commissioners. (History: S.L. 1963, Ch. 188; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235)

**33-2707. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT — PETITIONS AND SIGNATURES — ELECTION.** (1) Any area which does not have a tax supported library and which is contiguous to an existing library district may become a part of the district by petition and election.

(2) A petition may arise as set forth in section 33-2704, Idaho Code, in the area seeking to become a part of the library district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the library district may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners in the county in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area described in the petition. Notice of the election shall be given, the election shall be conducted on the next uniform election date as provided in section 34-106, Idaho Code, and the returns thereof canvassed as provided in section 33-2705, Idaho Code. The ballot shall bear the question: "Shall .... become a part of the .... (Name) Library District .... Yes" and "Shall .... become a part of the .... (Name) Library District .... No," each followed by a box in which the voter may express his choice by marking a cross "X." The proposal shall be deemed approved only if the majority of the votes cast in the area seeking to become a part thereof is in the affirmative.

(4) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map prepared in a draftsmanlike manner. A copy of this order shall be transmitted to the board of trustees of the library district, to each board of county commissioners of the county in which the district lies, and to the board of library commissioners.

(5) The board of trustees of the library shall transmit a certified copy of this order to the county recorder, the county assessor of the home county and to the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the election was held.

(6) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs appointment shall be made as provided in section 33-2716, Idaho Code. (History: S.L. 1963, Ch. 188; S.L. 1990, Ch. 378; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235)

## ***Library District Elections Selected Code Sections***

**33-2708. ADDITION OF TERRITORY NOT HAVING A TAX SUPPORTED LIBRARY TO A LIBRARY DISTRICT — ALTERNATE METHOD.** (1) An alternate method of adding territory to a library district may be initiated by a petition or petitions as set forth in section 33-2704, Idaho Code, except that the petitions must be signed by sixty percent (60%) of the qualified electors in the area to be annexed.

(2) A true copy of the petitions shall be transmitted to the board of trustees of the library district and to the board of county commissioners in each county affected. The board of trustees may approve or disapprove the petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When the notice carries the approval of the board of trustees of the district, the board of county commissioners of the county in which the petition arose shall proceed with the required hearing and resolution as outlined in section 33-2704, Idaho Code.

(4) When the proposal has the approval of the board of county commissioners, the board of trustees of the district and the board of county commissioners shall follow these procedures:

(a) If the proposal has been approved by the majority herein required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and transmit a copy of the order to the board of county commissioners in the county in which the petition arose. A copy of this order shall also be sent to the board of library commissioners.

(b) The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county, and the state tax commission in a timely manner, but no later than December 15, in the calendar year in which the order was granted.

(c) Addition of new territory to an existing library district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code. (History: S.L. 1990, Ch. 378; S.L. 1996, Ch. 71; 2006, Ch. 235)

**33-2709. EXISTING TAX SUPPORTED CITY LIBRARIES MAY JOIN LIBRARY DISTRICTS.** Any tax supported city library may join an established library district by majority vote of the qualified electors of the city according to procedure set forth in section 33-2707, Idaho Code. A true copy of the petition and the district library board's notice of approval or disapproval shall be sent to the city council. When the notice carries the approval of the district library board, the city clerk shall order the election and give notice to the county clerk who shall conduct the election in a manner consistent with chapter 14, title 34, Idaho Code, and at such time as prescribed in section 34-106, Idaho Code. After receiving the certification of results of the election from the county clerk, the city council shall give notice of those results to the library district board and the board of county commissioners.

If the proposal has been approved by the majority required, the board of county commissioners of the home county of the district shall enter its order amending the boundaries of the district, including a map drawn in a draftsmanlike manner, and a copy shall be transmitted to the board of trustees of the library district, to the board of county commissioners of the county in which the petition arose, and to the board of library commissioners.

The board of trustees of the library district shall transmit a copy of the order to the county recorder, the county assessor of the home county and the state tax commission in a timely manner, but no later than December 15, in the year in which the election was held.

Addition of new territory to an existing library district shall not be considered an initial establishment. The existing district board of trustees shall continue to serve for the terms for which elected. When a vacancy occurs, appointment shall be made as provided in section 33-2716, Idaho Code. (History: S.L. 1963, Ch. 188; S.L. 1990, Ch. 378; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235; S.L. 2013, Ch. 135)

## ***Library District Elections Selected Code Sections***

**33-2711. CONSOLIDATION OF LIBRARY DISTRICTS.** When there are two (2) or more library districts, which have at least one (1) common boundary, the boards of trustees of the library districts, meeting together, may determine that it is in the best interest of library service that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing library districts, the names of the existing library districts, and praying for the reorganization of the territory therein described as one (1) or more library districts to be known as the "... (Name) Library District" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the library boards upon majority approval of the respective boards involved in the consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2704, Idaho Code. Upon completion of the hearing, the board of county commissioners shall issue an order granting the petition.

In the order granting the petition of consolidation, the board of county commissioners in all counties affected shall certify the new boundaries and the name of the district.

A copy of the order shall be transmitted to the board of trustees of the library districts involved, and to the board of library commissioners.

Other notices required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries prepared in a draftsmanlike manner to be filed with the board(s) of county commissioners, the county recorder, the county assessor of the home county, the board of library commissioners, and the state tax commission in a timely manner, but no later than December 15, of the year in which consolidation takes place.

The board of county commissioners of the home county of the consolidated public library district shall within ten (10) days take action to reaffirm members of the board of trustees, or to appoint members of the board, who shall be chosen from the members of the boards initiating the consolidation. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as in section 33-2715, Idaho Code. The board of trustees shall take the oath of office as outlined in section 33-2715, Idaho Code. (History: S.L. 1973, Ch. 102; S.L. 1989, Ch. 132; S.L. 1990, Ch. 378; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235)

**33-2711A. ADJUSTMENT OF BOUNDARY LINES BETWEEN EXISTING PUBLIC LIBRARY DISTRICTS.** When the boards of two (2) public library districts having a common boundary determine that it is in the best interest of public library service that an adjustment of library district boundaries be made, this adjustment may be made using the following procedure.

The board of trustees shall jointly prepare a petition describing the boundaries of both the existing and proposed public library district, including maps prepared in a draftsmanlike manner, and the names of the public library districts, praying for the reorganization of the territory therein described.

The petition shall be signed by the chairperson of the library boards upon majority approval of the respective boards involved in the boundary adjustment.

The petition shall be forwarded to the clerk of the board(s) of county commissioners in all counties affected, who shall verify the signatures, and shall file the petition. Thereupon, the boards of county commissioners in all counties affected shall proceed with the hearing and resolution as outlined in section 33-2711, Idaho Code. Upon the completion of the hearing, the board of county commissioners shall issue an order granting the petition. (History: S.L. 1996, Ch. 71)



## **Library District Elections Selected Code Sections**

**33-2713. DISSOLUTION OF LIBRARY DISTRICT.** A library district may be dissolved according to procedures followed in its original organization, but not earlier than four (4) years after the date of its establishment. The ballot shall contain the words "Shall (Name) Public Library District be dissolved--Yes" and "Shall (Name) Public Library District be dissolved--No," each followed by a box wherein a voter may express his choice by marking a cross "X". If the library district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it is determined that the proposition has been approved, the board of county commissioners of the home county shall enter its order to that effect and transmit a copy of said order to the board of county commissioners in any other county affected, and said order shall by them be made a matter of record. When any library district is dissolved, all property and assets of the library district shall be disposed of by the board of county commissioners of the home county. Receipts from the sale of assets and all unpaid taxes, when collected, shall be first used to retire any indebtedness of the district. Any remainder shall be apportioned to the counties embraced in the library district in proportion to the assessed valuation of each which was included in the library district, and placed in the respective county general expense fund. If, after the application of the tax monies and sale proceeds, indebtedness remains, the board of county commissioners of the home county shall provide for the payment of the remaining indebtedness from special levies certified to each county in proportion to the assessed valuation of each which was included in the district. The tax shall be collected by each county and remitted to the home county for payment of the remaining indebtedness. (History: S.L. 1963, Ch. 188; S.L. 1980, Ch. 187; S.L. 1981, Ch. 305; S.L. 1996, Ch. 71)

**33-2715. BOARD OF TRUSTEES — SELECTION — NUMBER — QUALIFICATIONS — TERM — OATH — APPOINTMENT OF FIRST BOARD.** (1) Each library district shall be governed by a board of trustees of five (5) members elected or appointed as provided by law, who at the time of their selection and during their terms of office shall be qualified electors of the district and if trustee zones have been established under section 33-2718, Idaho Code, shall be a resident of the trustee zone. Trustees shall be elected at each trustee election, held on the uniform election date in May. The regular term of a trustee shall be for six (6) years, or until his successor has been elected and qualified. Within ten (10) days after his appointment an appointed trustee shall qualify and assume the duties of his office. An elected trustee shall qualify and assume the duties of his office at the annual meeting. All trustees qualify by taking the oath of office required of state officers, to be administered by one (1) of the present trustees or by a trustee retiring.

(2) Following the initial establishment of a library district, the board of county commissioners of the home county within five (5) days shall appoint the members of the first board of trustees, who shall serve until the next election of trustees held in an odd-numbered year or until their successors are elected and qualified in an odd-numbered year. The initial election of trustees shall be for terms of four (4) years for two (2) trustees and thereafter their terms shall be for six (6) years, terms of six (6) years for two (2) trustees and thereafter their terms shall be for six (6) years, and a term of two (2) years for one (1) trustee and thereafter the term shall be for six (6) years. Addition of new territory to an existing library district shall not be considered an initial establishment. The first board of trustees shall be sworn by a member of the board of county commissioners of the home county of the district.

(3) At its first meeting, and after each trustee election, the board shall organize and elect from its membership a chairman and other officers necessary to conduct the affairs of the district.

(4) Members of the board shall serve without salary but shall receive their actual and necessary expenses while engaged in business of the district.

(5) For the purpose of achieving an orderly transition to terms of six (6) years and to hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected

## **Library District Elections Selected Code Sections**

in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;  
(b) For trustees elected in 2006, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;  
(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;  
(d) For trustees elected in 2008, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;  
(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall each be six (6) years and thereafter those terms shall be for six (6) years;  
(f) For trustees elected in 2010, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years. (History: S.L. 1963, Ch. 188; S.L. 1983, Ch. 107; S.L. 1989, Ch. 132; S.L. 1996, Ch. 71; S.L. 2002, Ch. 312; S.L. 2009, Ch. 341; S.L. 2010, Ch.185)

### **33-2716. BOARD OF TRUSTEES — NOMINATION AND ELECTION — RECALL — VACANCIES.**

(1) The procedure for nomination and election of trustees of a library district shall be as provided for in chapter 14, title 34, Idaho Code, and in the general election laws of Idaho. If any two (2) or more candidates for the same trustee position have an equal number of votes, the board of trustees shall determine the winner by a toss of a coin.

(2) Notwithstanding the limitations of chapter 17, title 34, Idaho Code, each library district trustee shall be subject to recall following procedures pursuant to section 34-1702 (5), Idaho Code.

Individuals signing a petition to recall a library trustee or voting in an election to recall a library trustee shall meet the requirements of section 33-2702, Idaho Code.

If, pursuant to section 33-2717, Idaho Code, no election was held for the trustee being recalled:

(a) The number of district electors required to sign the petition seeking a recall election must be not less than fifty (50), or twenty per cent (20%) of the number of votes cast in the last trustee election held in the library district, whichever is the greater.

(b) To recall any trustee, a majority of the votes cast at the recall election must be in favor of the recall, and additionally, the number of votes cast in the recall election must equal or exceed the number of votes cast in the last trustee election held in the library district.

(3) A vacancy shall be declared by the board of trustees when any nominee has been elected but has failed to qualify for office, or within thirty (30) days of when any trustees shall (a) die; (b) resign from office; (c) no longer reside in his respective trustee zone of residence; (d) no longer be a resident or qualified elector of the public library district; (e) refuse to serve as trustee; (f) without excuse acceptable to the board of trustees, fail to attend two (2) consecutive regular meetings of the board; or (g) be recalled and discharged from office as provided in this chapter.

A declaration of vacancy shall be made at any regular or special meeting of the board of trustees, at which any of the above mentioned conditions is determined to exist.

The board of trustees shall appoint to fill the vacancy, a person qualified to serve as trustee of the public library district, provided there remains in membership on the board of trustees a majority of the membership thereof, and the board shall notify the board of library commissioners of the appointment. This appointment shall be made within sixty (60) days of the declaration of vacancy. In the event that the board of trustees fails to exercise their authority, appointments shall be made by the board of county commissioners of the home county in which the district is located within thirty (30) days after the expiration of the sixty (60) days allowed for trustees for this action.

Any person appointed as provided in this chapter shall serve until the next election of public library district trustees following the appointment. At the election a trustee shall be elected to complete the unexpired term of the office which was declared vacant filled by appointment.

## **Library District Elections Selected Code Sections**

The elected trustee shall assume office at the first annual meeting of the public library district following the election. (History: S.L. 1980, Ch. 231; S.L. 1989, Ch. 132; S.L. 1993, Ch. 303; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235; S.L. 2009, Ch. 341; S.L. 2012, Ch. 148)

**33-2717. BOARD OF TRUSTEES — ONE NOMINATION — NO ELECTION.** In any election for the office of trustee it is not necessary to conduct an election if:

(1) after the expiration of the date for filing written nominations only one (1) candidate has been nominated for each position to be filled; and, there has been no declaration of intent to be a write-in candidate filed as provided in section 33-2717A, Idaho Code; or

(2) if no candidate has filed a written nomination and only one (1) candidate for each position to be filled has filed a declaration of intent to be a write-in candidate as provided in section 33-2717A, Idaho Code. If either of these conditions are present, the board of trustees shall no later than seven (7) days before the scheduled date of the election declare the candidate elected as trustee, and the clerk of the library board shall immediately make and deliver to this person a certificate of election. The clerk of the library board shall also notify the clerk of the county commissioners of the home county and the commission for libraries. The procedure set forth in this section shall not apply to any other library district election. (History: S.L. 1980, Ch. 232; S.L. 1989, Ch. 132; S.L. 1992, Ch. 4; S.L. 1995, Ch. 119; S.L. 1996, Ch. 71; S.L. 2006, Ch. 235)

**33-2717A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATE.** No write-in vote for library district trustee in a library district election shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of library trustee if elected. The declaration of intent shall be filed with the clerk of the library board not later than forty-five (45) days before the day of election. (History: S.L. 1992, Ch. 4; S.L. 1996, Ch. 71; S.L. 2013, Ch. 135)

**33-2718. CREATION OF TRUSTEE ZONES.** (1) Each library district may be divided into five (5) trustee zones with each zone having approximately the same population. To the maximum extent possible, boundaries of trustee zones shall follow the existing boundaries of the electoral precincts of the county. They shall be revised, as necessary, to equalize population and to follow new electoral precinct boundaries following the publication of the report of each decennial census. In order for a library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and providing a legal description of each trustee zone. The board of trustees shall transmit the motion along with the legal description of the trustee zones to the board or boards of county commissioners in the county or counties where the library district is contained and to the board of library commissioners. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and legal description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, they shall be deemed to be in full force and effect. If a library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the library board of trustees in writing if a proposal is rejected.

(2) If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years after a new set of trustee zones are formally established and in full force and effect.

(3) At the next regular meeting of the board of trustees of the library district following the creation of trustee zones, the public library district board shall appoint from its membership or from other qualified

## **Library District Elections Selected Code Sections**

electors resident in each trustee zone, a person from that zone to serve as a trustee until the next regularly scheduled trustee election from that zone, which election shall be held in an odd-numbered year. The initial election of trustees for the trustee zones shall be for terms of four (4) years for two (2) trustees and thereafter their terms shall be for six (6) years, terms of six (6) years for two (2) trustees and thereafter their terms shall be for six (6) years, and a term of two (2) years for one (1) trustee and thereafter the term shall be for six (6) years, with each zone being assigned an initial term length by a random drawing of the numbers one (1) through five (5).

(4) For the purpose of achieving an orderly transition to terms of six (6) years and hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(b) For trustees elected in 2006, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(d) For trustees elected in 2008, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall each be six (6) years and thereafter those terms shall be for six (6) years;

(f) For trustees elected in 2010, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years. (History: S.L. 1983, Ch. 107; S.L. 1989, Ch. 132; S.L. 1996, Ch. 71; S.L. 2002, Ch. 312; S.L. 2006, Ch. 235; S.L. 2009, Ch. 341; S.L. 2010, Ch. 185)

**33-2728. BOND ELECTION.** (1) The purposes for which bonds may be issued shall be: To acquire, purchase, or improve a library site or sites; to build a library or libraries, or other building or buildings; to demolish or remove buildings; to add to, remodel or repair any existing building; to furnish and equip any building or buildings, including all facilities and appliances necessary to maintain and operate the buildings of the library; and to purchase motor vehicles for use as bookmobiles.

The library district may issue bonds in an amount not to exceed one percent (1%) of the market value for assessment purposes of property within the district, less any aggregate outstanding indebtedness.

The board of trustees of any library district, upon approval of a majority thereof, may call a bond election on the question as to whether the board shall be empowered to issue bonds of the district in an amount and for a period of time to be stated in the notice of election. The notice of bond elections, the qualification of bond electors, the conduct of the election, and the canvass of election and determination of the result of election shall be in accordance with chapter 14, title 34, Idaho Code, and with the general election laws of the state of Idaho. Provided however, that any such election conducted pursuant to this section shall be held on election day in the month of May or November as provided for in section 34-106(1), Idaho Code. The majority required to pass a bond issue shall be two-thirds (2/3) of those voting in the election. The issuance of bonds, the expenditure of bond proceeds and the repayment of the bonds shall all be as specified in school district law.

(2) District library bond funds may not be used to purchase or expand a building for a contracting agency providing library services unless the district library gains an ownership share in the building proportional to the percentage of district bond funds used to purchase or expand the building. (History: S.L. 1965, Ch. 255; S.L. 1980, Ch. 350; S.L. 1989, Ch. 132; S.L. 1993, Ch. 303; S.L. 2002, Ch. 155; S.L. 2009, Ch. 132)

## ***Library District Elections Selected Code Sections***

**33-2737. SCHOOL-COMMUNITY LIBRARY DISTRICTS.** (a) The board of trustees of any school district in which is situated no incorporated city having a population in excess of one thousand (1,000), and in which no public library is maintained under any other provision of law, shall, upon petition of twenty (20) or more school district electors, submit to the school district electors of the district the question whether there shall be a public library established by the district for the benefit of the citizens thereof.

(b) The election on the question shall be held at the same time as the election of school district trustees, next following the filing of the petition, and notice shall be given, the election conducted, and the returns canvassed, as provided in chapter 4, title 33, Idaho Code.

(c) If a majority of the school district electors voting in the election vote in favor of the question a school-community library district shall be established.

(d) No new school-community library shall be established after June 30, 1994. (History: S.L. 1963, Ch. 13; S.L. 1975, Ch. 105; S.L. 1992, Ch. 275; S.L. 1996, Ch. 71)

**33-2738. SCHOOL-COMMUNITY LIBRARY DISTRICTS — BOARD OF TRUSTEES — TRUSTEE ZONES.** Each school-community library district shall be governed by a board of trustees of five (5) members, who at the time of their selection and during their terms of office shall be qualified electors of the district.

(1) Four (4) of the trustees shall be elected. The procedure for nomination and election of trustees shall be as provided for the nomination and election of trustees of a library district pursuant to this chapter. Each school-community public library district may be divided into four (4) trustee zones with each zone having approximately the same population. In order for a school-community public library district to be divided into trustee zones, the board of trustees shall pass a motion declaring the district to be divided into trustee zones and present a description of boundaries of each trustee zone. The board of trustees shall transmit the motion along with the boundaries of the trustee zones to the board or boards of county commissioners in the county or counties where the school-community public library district is contained. The board or boards of county commissioners shall have forty-five (45) days from the receipt of the motion and description to reject, by adoption of a motion, the establishment of trustee zones proposed by formal motion of the board of trustees of the school-community public library district. If the board or boards of county commissioners do not reject the establishment of the trustee zones within the time limit specified, the zones shall be deemed to be in full force and effect upon the next annual trustee election. If a school-community public library district is contained in more than one (1) county, a motion of rejection adopted by one (1) board of county commissioners shall be sufficient to keep the trustee zone plan from going into effect. A board of county commissioners shall notify the board of trustees in writing if a proposal is rejected.

If a proposal for the establishment of trustee zones is rejected by a board of county commissioners, the boundaries of the trustee zones, if any, shall return to the dimensions they were before the rejection. Trustee zones may be redefined and changed, but not more than once every two (2) years, after a new set of trustee zones are formally established and in full force and effect.

All other matters relating to school-community library public district trustee zones shall be as provided in chapters 4 and 5, title 33, Idaho Code, relating to school district trustee zones.

(2) The fifth trustee of the school-community library district board shall be a member of the school district board and shall be appointed by the school district board from its members at the annual meeting of the school district board. In the case of division of the district into four (4) elected school-community public library trustee zones, this fifth trustee shall serve as a trustee member-at-large.

(3) The initial board, except for the fifth trustee who shall be appointed by the school board, shall be appointed by the board of county commissioners, and shall serve until the next annual election of trustees or until their successors are appointed and qualified. (History: S.L. 1992, Ch. 275; S.L. 1996, Ch. 71)

***Library District Elections***  
***Selected Code Sections***

**33-2740. SCHOOL-COMMUNITY LIBRARY DISTRICTS — CONSOLIDATION — REORGANIZATION INTO LIBRARY DISTRICTS.** School-community library districts may join existing library districts according to the procedures set forth in section 33-2711, Idaho Code.

School-community library districts may reorganize into a library district as follows. The board of trustees of the school-community library district shall present a resolution calling for reorganization to the board of county commissioners who shall follow the procedures in subsections (2) through (5) of section 33-2704, Idaho Code, except that no precedent petition shall be necessary. After the required hearing, the board of county commissioners shall appoint the first board of library district trustees and thereafter trustees shall be elected as provided in section 33-2715, Idaho Code. The school-community library district's dollar amount of the budget from ad valorem taxes shall be transferred without interruption to the new library district and shall be the base of the ad valorem portion of the new district's budget.

The dispersment of the assets and liabilities of the school-community library district shall be the responsibility of the school-community library district board of trustees should the library consolidate with a library district, organize into a library district, or dissolve. (History: S.L. 1992, Ch. 275; S.L. 1996, Ch. 71)

## ***Mosquito Abatement District Elections Frequently Asked Questions***

### **When are abatement district elections held?**

Elections for the formation of a mosquito abatement district are held on the third Tuesday in May or the Tuesday following the first Monday in November. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (34-106, 39-2802, Idaho Code)

### **How many trustees are in an abatement district and what are their terms of office?**

Each abatement district is governed by a board of five (5) trustees from within the area of the abatement district that are appointed by the board of county commissioners. The term of office for a trustee is four (4) years. The terms of office are staggered. (39-2803, Idaho Code)

### **How do I know if I'm eligible to vote in the creation of an abatement district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The county clerk's election department can tell you if you are eligible to vote in the creation election. (34-104, 34-1402, 39-2802, Idaho Code)

### **What are the requirements if I want to be a trustee on the board of the district?**

A five (5) member board of trustees shall be appointed from within the area of the proposed abatement district to govern the abatement district. Each trustee shall be a resident property owner and a registered voter. Trustees are appointed by the county commissioners for four (4) years on staggered appointments. To initiate the board, two (2) members are appointed for two (2) years, one for three (3) years and two (2) for four (4) years. Subsequent appointments are then for four (4) years. (39-2803, Idaho Code)

### **Who is responsible for administration of the election to create an abatement district?**

The county clerk has authority to administer abatement district creation elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code. The abatement district shall bear the expense of holding their portion of the election upon their successful formation from the first tax moneys collected. (34-1401, 39-2802, Idaho Code)

### **Can abatement district trustees be recalled?**

No. They are appointed by the county commissioners, and therefore can not be recalled. (39-2803, Idaho Code)

### **How are vacancies filled?**

Any vacancy occurring in the office of abatement trustee is filled by the county commissioners. (39-2803, Idaho Code)

### **Is absentee voting allowed?**

Yes. Any registered elector of the mosquito abatement district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. (34-1002, 34-1408, Idaho Code)

*This page intentionally left blank.*



**Mosquito Abatement District Elections**  
**Selected Code Sections**

- 39-2801 DEFINITIONS
- 39-2801A AUTHORIZATION TO FORM ABATEMENT DISTRICTS
- 39-2802 PROCEDURES FOR FORMATION OF ABATEMENT DISTRICTS
- 39-2803 SELECTION OF OFFICIALS OF ABATEMENT DISTRICTS
- 39-2804 POWERS AND DUTIES OF ABATEMENT DISTRICTS
- 39-2805 METHOD OF FINANCING ABATEMENT DISTRICTS
- 39-2806 ANNEXATION TO ABATEMENT DISTRICTS
- 39-2807 CONSOLIDATION OF ABATEMENT DISTRICTS
- 39-2810 WITHDRAWAL
- 39-2812 PESTS — PUBLIC HEALTH AND WELFARE — DISASTERS — EMERGENCIES —  
INTERIM ABATEMENT DISTRICTS
- 39-2813 OPERATION OF ABATEMENT DISTRICTS BY COUNTY

**39-2801. DEFINITIONS.** When used in this chapter:

(1) "Vector" means an animal, such as an insect, that transmits a disease producing organism from one host to another.

(2) "Vermin" means small animals, including insects, of public health and welfare concern which are difficult to control when they appear in large numbers. (History: S.L. 2007, Ch. 188)

**39-2801A. AUTHORIZATION TO FORM ABATEMENT DISTRICTS.** There may be formed, under the provisions of this chapter, districts for the abatement of mosquitoes or other vermin of public health and welfare importance, in any area of the state from territory of one (1) or more counties, one (1) or more cities or towns, or any combination or portion thereof. No district shall contain noncontiguous areas except where a noncontiguous area of land consisting of not less than forty (40) contiguous acres, is separated from the district by public property owned by the federal, state or local government, such noncontiguous land may be included in the district by election or agreement of the private property owners. Any abatement district formed under this chapter, including an interim district formed under the provisions of section 39-2812, Idaho Code, shall be governed by the provisions of section 39-2804, Idaho Code. (History: S.L. 1959, Ch. 81; S.L. 2007, Ch. 188)

**39-2802. PROCEDURES FOR FORMATION OF ABATEMENT DISTRICTS.** (1) Abatement districts may be formed in the following ways:

(a) Upon presentation to the board of county commissioners of a petition requesting the formation of an abatement district, which is signed by property owners of the territory of the proposed abatement district, equal to not less than ten percent (10%) of the property owners within the proposed district, the commissioners shall publish such petition when the following conditions are met: the petition must define the boundaries of the proposed district and assessed tax valuation of the property therein. When the above conditions have been met the county commissioners shall publish the petition, and if after thirty (30) days no protests are received, an election must be held on a regularly scheduled election date specified in section 34-106, Idaho Code. The abatement district shall bear the expense of holding their portion of the election upon their successful formation from the first tax moneys collected. If there are written protests, the county commissioners must hold a public hearing within thirty (30) days after receipt of the written protests and after the hearing hold an election. Notice of the time and place of such election shall be published at least once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district.

(b) The board of county commissioners may place the question on a ballot during either a primary or general election as to whether to create an abatement district. If the board of county commissioners

## ***Mosquito Abatement District Elections Selected Code Sections***

determines to place such a question on the ballot, it shall be after they define the boundaries of the proposed district and assessed tax valuation of the property therein. Notice of the time and place of such election shall be published at least once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district.

(2) No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state and be a resident of the proposed district. A majority of the votes cast by the qualified electors shall establish the district. (History: S.L. 1959, Ch. 81; S.L. 1995, Ch. 118; S.L. 2007, Ch. 188)

**39-2803. SELECTION OF OFFICIALS OF ABATEMENT DISTRICTS.** A five (5) member board of trustees shall be appointed from within the area of the proposed abatement district to govern the abatement district. The trustees appointed shall at the first meeting of each year elect a president, secretary and treasurer to serve during the ensuing year. The officers of the board shall be bonded to the extent of five hundred dollars (\$500) to five thousand dollars (\$5,000) each as set by the county commissioners. The members of the board shall be appointed by the county commissioners of the county which they are to represent. When two (2) or more counties or portions thereof comprise an abatement district, the selection of trustees will be made by mutual agreement of the county commissioners concerned. Each trustee shall be a resident property owner and a registered voter. Trustees shall be appointed for four (4) years on staggered appointments. To initiate the board two (2) members are appointed for two (2) years, one (1) for three (3) years and two (2) for four (4) years. Subsequent appointments shall be for four (4) years. Trustees shall serve without compensation but will be reimbursed for necessary expenses involved with the performance of their official duties. The county health officer and the county agent shall be ex officio members of the board. Whenever two (2) or more counties or portions thereof are included in the district, the health officer and county agent for each county shall be ex officio members of the board. The [directors or] heads of the following state departments or their designated representatives shall be considered ex officio members of the board and may be called upon for their advice and assistance in the handling of abatement problems affecting their direct interests: agriculture, fish and game, lands, transportation, water resources and health and welfare. (History: S.L. 1959, Ch. 81; S.L. 1974, Ch. 18; S.L. 1974, Ch. 23)

**39-2804. POWERS AND DUTIES OF ABATEMENT DISTRICTS.** The abatement district board of trustees is authorized:

(1) To appoint a director to direct the activities of the district, in accordance with training and experience necessary to fulfill the duties of the position.

(2) To appoint such other persons as necessary, determine their duties and compensation, and make rules and regulations respecting them.

(3) To take all necessary and proper steps for the control of mosquitoes and other vermin of public health and welfare importance in the district and for these purposes shall have the right to enter upon any and all lands.

(4) To sue and be sued.

(5) To contract to purchase, hold, dispose of, and acquire by gift real and personal property in the name of the district. To exercise the right of eminent domain and for these purposes to condemn any necessary land or rights-of-way in accordance with general law.

(6) To abate as nuisance breeding places of mosquitoes or other vermin of public health and welfare importance within the district or within migrating distance of the district by use of chemicals or permanent control measures and in this connection have the right to enter upon any and all lands.

(7) To work with the lateral ditch water users associations, irrigation, drainage and flood control districts

## ***Mosquito Abatement District Elections Selected Code Sections***

and other cooperating organizations. The board of trustees of the abatement district may supplement funds of cooperating organizations for improvement, repair, maintenance and cleaning of ditches which will temporarily or permanently eliminate mosquito breeding or for other activities which will benefit the district.

(8) To file annually with the board of county commissioners for their approval an estimate of funds required for the next year, a plan of the work to be done, and methods to be employed. No procedure, work or contract for any year of operation shall be done or entered upon until plans and budget have been jointly approved by the board of county commissioners.

(9) To file, annually or by February 1 of the succeeding year, with the board of county commissioners a report setting forth the moneys expended during the previous year, methods employed, and work accomplishments.

(10) To approve a written mosquito or other vermin management plan submitted by a landowner requesting that their property be excluded from treatment by the abatement district. Such plan must be specific to the landowner's property, provide adequate control measures, and be implemented by the landowner. The abatement district shall refrain from treatment of property included in the approved plan, but shall maintain monitoring and surveillance activities. If the landowner fails to follow the plan or does not provide adequate control measures, the abatement district may abate the mosquitoes or other vermin.

(11) To cooperate with other entities. At its discretion, a district may cooperate with and enter into annual agreements or contract with governmental agencies of this state, other states, agencies of the federal government, private associations, and private individuals in order to carry out the purposes and provisions of this chapter. (History: S.L. 1959, Ch. 81; S.L. 1974, Ch. 23; S.L. 1993, Ch. 199; S.L. 2007, Ch. 188)

**39-2805. METHOD OF FINANCING ABATEMENT DISTRICTS.** The board of county commissioners must levy upon taxable property within the district a tax at a rate not greater than sufficient to raise the amount determined by the board of trustees as approved by the board of county commissioners, as necessary for the operation of the district for the ensuing year. In no event shall such tax exceed one tenth percent (.1%) of the market value for assessment purposes on all taxable property within the district. All taxes thus levied shall be collected in the same manner as other taxes and deposited to the credit of the abatement district and shall be used for no other purposes. Such funds may be withdrawn from the county treasury and upon warrant of the board of trustees of the abatement district, signed by the president of the board and countersigned by its secretary, for the activities of the abatement district. (History: S.L. 1959, Ch. 81; S.L. 1974, Ch. 23; S.L. 1993, Ch. 199; S.L. 1995, Ch. 82)

**39-2806. ANNEXATION TO ABATEMENT DISTRICTS.** Contiguous territories may be annexed to organized abatement districts upon petition of a majority of the legal voters in the territory seeking annexation and of the owners of more than half, by assessed value, of the taxable property in such territory, or by written request for annexation of a designated area, submitted to the trustees of the existing abatement district and signed by all members of the board of county commissioners in which county the territory seeking annexation is located. For annexations that will increase the size of an existing contiguous district, there shall be no size restriction on the property being annexed. Noncontiguous areas shall not be annexed unless the area meets the provisions of section 39-2801A, Idaho Code. Upon receiving this petition or written request, the trustees of the existing abatement district must submit the question of annexation to the legal voters of the district at an election held subject to the provisions of section 34-106, Idaho Code. (History: S.L. 1959, Ch. 81; S.L. 1993, Ch. 81; S.L. 1995, Ch. 118; S.L. 2007, Ch. 188)

## ***Mosquito Abatement District Elections Selected Code Sections***

**39-2807. CONSOLIDATION OF ABATEMENT DISTRICTS.** Two (2) or more contiguous districts may be consolidated. Any district board of trustees may seek consolidation by adoption of a resolution by a majority vote of its members. Consolidation is accomplished by a majority vote of the members of each of the boards of trustees involved in the consolidation. The consolidated districts may enter into arrangements for pooling funds and joint use of personnel, equipment, and supplies. The activities conducted under joint arrangement shall be considered as if conducted directly by the board having jurisdiction over the area concerned. The board of county commissioners must be given written notice of consolidation. (History: S.L. 1959, Ch. 81; S.L. 1993, Ch. 199)

**39-2810. WITHDRAWAL.** Any portion of an abatement district which will not be reasonably benefited by remaining within such district may be withdrawn as in this section provided. Upon receiving a petition signed by fifty (50) or more landowners within the portion desired to be withdrawn from any abatement district, or by a majority of such landowners, if there are less than one hundred (100) landowners within the portion sought to be withdrawn, requesting the withdrawal of such portion from the district on the ground that such portion will not be reasonably benefited by remaining in said district, the board of county commissioners shall fix a time for hearing on such petition and for hearing protests to the continuance of the remaining territory as an abatement district. The hearing shall not be less than ten (10) days nor more than thirty (30) days after the receipt thereof. The board shall, at least one (1) week prior to the time so fixed, publish notice of such hearing by one (1) publication in a newspaper of general circulation in the district, which the board deems most likely to give notice to the inhabitants thereof, of the proposed withdrawal. (History: S.L. 1965, Ch. 177; S.L. 2007, Ch. 188)

**39-2812. PESTS — PUBLIC HEALTH AND WELFARE — DISASTERS — EMERGENCIES — INTERIM ABATEMENT DISTRICTS.** (1) To provide for the timely response to an elevated or anticipated pest population that may constitute a risk to public health and welfare, the board of county commissioners of each county of this state, in collaboration with duly recognized local and state officials, and after a public hearing is called for such purpose as a special meeting pursuant to the provisions of section 74-204(2), Idaho Code, is hereby granted full power and authority to declare such pests as public health and welfare pests, and to initiate activities to hinder in the potential spread of disease, or adverse economic impact, caused by these pests by taking appropriate steps to intervene in the natural biological cycle of the pests or disease.

(2) Boards of county commissioners are further authorized and empowered, in the event of a disaster or emergency declared by such boards, to make direct appropriations for the purpose of controlling public health and welfare pests as declared pursuant to this section. All moneys raised by direct appropriation shall be placed in a county public health and welfare pest fund, which shall be used exclusively for the control of pests of public health and welfare significance and for payment of all necessary expenses incurred in such control program. In addition, the county may impose an annual property tax assessment pursuant to section 39-2805, Idaho Code, and in accordance with the provisions of sections 63-802 and 63-803, Idaho Code, for the term of the disaster or emergency or until all expenses incurred during the disaster or emergency have been recovered. Such fund shall be a revolving fund and all moneys returned to the fund under any of the provisions of this chapter shall continue to be available for the operation of the control program.

(3) The disaster or emergency declaration of a pest of public health and welfare significance within a county and subsequent pest management activity shall, except as provided herein, place the whole county into an interim abatement district for administrative purposes for no more than two (2) years. The transition of an interim abatement district into a formally defined abatement district, shall be brought to a vote of the electorate within twenty-four (24) months of the declaration, subject to the notification and establishment requirements provided in this chapter and conducted during a general election held on the

***Mosquito Abatement District Elections  
Selected Code Sections***

first Tuesday following the first Monday in November of even numbered years, and if passed, the district shall be recognized and the provisions of this chapter shall be implemented. If the measure fails, the balance of revolving fund moneys shall be distributed as required by state law. In the event the disaster or emergency exceeds the county's capacity or resources, provisions should be made to request state or federal disaster or emergency funds to address the evolving situation. If the interim abatement district provides the same service as an existing abatement district, the interim abatement district shall exclude any area within an existing abatement district. (History: S.L. 2007, Ch. 188; S.L. 2015, Ch. 141)

**39-2813. OPERATION OF ABATEMENT DISTRICTS BY COUNTY.** Any district board of trustees may seek operation of the district by the board of county commissioners by adoption of a resolution by a majority vote of its members and by a majority vote of the board of county commissioners. The board of county commissioners may provide by ordinance that the abatement district board of trustees shall function as an advisory board to the board of county commissioners. If such an ordinance is adopted, the board of county commissioners shall retain and may exercise the powers, duties and responsibilities otherwise charged to the abatement district board of trustees by the provisions of this chapter. Any such ordinance shall set forth the powers, duties, responsibilities, compensation, and terms of office of the abatement advisory board and may provide for any such other rules under which the abatement advisory board shall advise the board of county commissioners and conduct its operations. Any such ordinance may be repealed at any time and, if repealed, the provisions of this chapter shall apply as if no such ordinance had been adopted. (History: S.L. 2007, Ch. 188)

*This page intentionally left blank.*

## ***Municipal Elections Frequently Asked Questions***

### **When are municipal elections held?**

General elections are held on the first Tuesday following the first Monday in November in each odd-numbered year. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (34-106, 50-405, Idaho Code)

### **How many councilmen are elected and what are their terms of office?**

City Council shall consist of either four (4) or six (6) members, one half (1/2) of whom shall be elected at each general city election, except those cities operating under a council-manager plan as provided for in sections 50-801 through 50-812. Under the council-manager plan, the city council shall consist of either five (5) members, with three (3) being elected one year and two (2) being elected at the next election; or if seven (7) members, with four (4) being elected in one year and with three (3) at the next election. Each councilman term of office is four (4) years. (50-701, 50-702, and 50-806, Idaho Code)

### **When is a mayor elected and what is his term of office?**

The mayor is elected for a period of four (4) years except as otherwise specifically provided. The mayor is elected at the General City Election and shall be installed at the first meeting in January following election. (50-601, 50-702, Idaho Code)

### **How do I know if I'm eligible to vote in a municipal election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the city. To be eligible to register to vote in city elections, you must be at least eighteen (18) years of age, a citizen of the United States and a resident of the city for at least thirty (30) days next preceding the election, or a resident of an area annexed by a city pursuant to the provisions of Chapter 2, Title 50, Idaho Code. (34-104, 34-1402, 50-404, Idaho Code)

### **What are the requirements if I want to run for mayor or city councilman?**

Any person shall be eligible to hold the office of mayor or city council who is a qualified elector of the city at the time his declaration of candidacy or declaration of intent is submitted to the city clerk and remains a qualified elector during his term of office. Candidates must file their declarations between 8:00 am on the 11th Monday before the election and 5:00 p.m. on the 9th Friday before the election with the city clerk. Before a candidate files a petition of candidacy with the city clerk, the petition signatures shall be verified by the county clerk in the manner described in section 34-1807, Idaho Code, except that the city clerk stands in the place of the Secretary of State.

The Declaration of Candidacy and Petition of Candidacy forms are available from and filed with the city clerk. However, forms are also available from the County Clerk's Election Office. (50-410, 50-601, 50-702, Idaho Code; see *Election Consolidation Calendar for dates*)

### **How many councilmen are elected at each election?**

For all cities (except those operating under a council-manager plan 50-801 through 50-812, Idaho Code) 1/2 of all members of the council will be elected at each general election. (50-701, Idaho Code)

### **Who is responsible for administration of municipal elections?**

The county clerk shall administer all elections on behalf of each city. The county clerk is the chief elections officer and shall exercise general supervision of the administration of the election laws in the city. The county clerk shall meet with and issue instructions to election judges and clerks prior to the opening of the polls to ensure uniformity in the application, operation and interpretation of the election laws during the election. (34-1401, 50-403, Idaho Code)

## ***Municipal Elections Frequently Asked Questions***

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the city clerk not less than twenty-eight (28) days before the election. Declaration of Intent forms are available from the city clerk or the County Clerk's Election Office. *(34-702A, 50-410, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the city may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can city elected officials be recalled?**

Yes. The provisions and procedures to recall city elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, 50-417, Idaho Code)*

### **How are vacancies filled?**

**Mayor:** In case of a temporary vacancy in the office of mayor due to absence or disability, the president of the council shall exercise the office of mayor during such disability or temporary absence, and until the mayor shall return. When a vacancy occurs in the office of mayor by reason of death, resignation or permanent disability, the city council shall fill the vacancy from within or without the council as may be deemed in the best interests of the city, which the appointee shall serve until the next general city election, at which election a mayor shall be elected for the full four (4) year term. *(50-608, Idaho Code)*

**Councilman:** A vacancy on the council shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next general city election, at which such vacancy shall be filled for the balance of the original term. *(50-704, Idaho Code)*

### **Do campaign finance disclosure laws apply to city election?**

Campaign finance disclosure laws apply to elections for mayor, council members and city wide measures and recalls in cities of 5,000 or more in population except that the city clerk stands in place of the Secretary of State and the city attorney stands in place of the Attorney General. *(50-420, Idaho Code)*



***Municipal Elections***  
***Selected Code Sections***

50-402	DEFINITIONS
50-403	SUPERVISION OF ADMINISTRATION OF ELECTION LAWS BY COUNTY CLERK
50-404	REGISTRATION OF ELECTORS
50-405	GENERAL AND SPECIAL CITY ELECTIONS
50-406	METHOD OF NOMINATION — CLERK TO FURNISH PRINTED FORMS
50-407	FORM OF DECLARATION OF CANDIDACY
50-410	TIME AND MANNER OF FILING DECLARATIONS
50-411	NOTICE OF CANDIDATE FILING DEADLINE
50-412	CANVASSING VOTES — DETERMINING RESULTS OF ELECTION
50-413	TIE VOTES
50-414	FAILURE TO QUALIFY CREATES VACANCY
50-415	CERTIFICATES OF ELECTIONS
50-416	APPLICATION FOR RECOUNT OF BALLOTS
50-417	RECALL ELECTIONS
50-418	INITIATIVE AND REFERENDUM ELECTIONS
50-419	ELECTION LAW VIOLATIONS
50-420	REPEALED
50-501	REPEALED
50-601	QUALIFICATIONS
50-608	VACANCY IN THE OFFICE OF MAYOR
50-612	MAJORITY REQUIRED FOR ELECTION — RUNOFF ELECTION
50-701	COMPOSITION — POWERS
50-702	QUALIFICATIONS OF COUNCILMEN — TERMS — INSTALLATION
50-703	CHANGE IN NUMBER OF COUNCILMEN
50-704	VACANCIES — APPOINTMENT
50-707	ASSIGNMENT OF COUNCIL SEATS
50-707A	ELECTION OF COUNCILMEN BY DISTRICTS
50-707B	MAJORITY MAY BE REQUIRED FOR ELECTION — RUNOFF ELECTION
50-802	INSTITUTING ELECTION, PETITION — RESOLUTION
50-803	TIME FOR HOLDING SPECIAL ELECTION ON PROPOSITION
50-804	PROPOSITION TO BE VOTED
50-805	GOVERNING BODY — SIZE
50-806	ELECTION OF OFFICIALS FOLLOWING ADOPTION — DETERMINING SUCCESSFUL CANDIDATES — DESIGNATION OF SEATS
50-807	EFFECTIVE DATE FOLLOWING ADOPTION OF PLAN
50-812	DISCONTINUANCE OF COUNCIL-MANAGER PLAN — PROPOSITION TO BE VOTED
50-813	CALCULATION FOR NUMBER OF REQUIRED SIGNATURES
50-1026	CITY BONDS — ORDINANCE — ELECTION
50-1026A	CITY BONDS — PLEDGE OF REVENUES
50-1035	ORDINANCE PRIOR TO CONSTRUCTION — ELECTION
50-1035A	ISSUANCE OF REVENUE BONDS AT RATES OF INTEREST IN EXCESS OF ORIGINAL SPECIFICATION
50-1044	AUTHORITY FOR RESORT CITY RESIDENTS TO APPROVE AND RESORT CITY GOVERNMENTS TO ADOPT, IMPLEMENT, AND COLLECT CERTAIN CITY NONPROPERTY TAXES
50-1046	CITY LOCAL-OPTION NONPROPERTY TAXES PERMITTED BY SIXTY PER CENT MAJORITY VOTE
50-2101	CONSOLIDATION OF CITIES

***Municipal Elections***  
***Selected Code Sections***

50-2102	RESOLUTION FOR JOINT SESSION OF GOVERNING BODIES
50-2103	PETITION FOR CONSOLIDATION
50-2104	JOINT SESSION — RESOLUTION SPECIFYING TIME OF ELECTION
50-2105	SUBMISSION OF QUESTION TO ELECTORS — ELECTION
50-2106	RESULTS OF ELECTION CERTIFIED TO SECRETARY OF STATE
50-2107	ELECTION OF OFFICERS OF CONSOLIDATED CORPORATIONS
50-2108	EFFECTIVE DATE
50-2114	EXPENSES OF CONSOLIDATION
50-2201	PETITION FOR DISINCORPORATION
50-2202	ELECTION TO DETERMINE QUESTION
50-2203	CANVASS OF VOTE
50-2204	EFFECT OF NEGATIVE VOTE
50-2205	PROCEEDINGS UPON AFFIRMATIVE VOTE — ORDER OF DISINCORPORATION
50-2302	PETITION FOR ORGANIZATION UNDER GENERAL LAWS — ELECTION
50-2303	SUBMISSION OF PROPOSITION TO ELECTORATE — FILING OF CERTIFICATES — PROCLAMATION OF GOVERNOR
50-2304	GOVERNING BODY TO CONTINUE IN OFFICE
50-2305	EFFECT OF ELECTION — OFFICIALS
50-2308	ELECTION OF OFFICERS

Title 50 - Municipal Corporations  
Chapter 4 - Municipal Elections

**50-402. DEFINITIONS.** The following words and phrases when used in this chapter, have the meanings respectively given herein.

(a) General election. “General election” means the election held on the first Tuesday succeeding the first Monday in November in each odd-numbered year at which there shall be chosen all mayors and councilmen as are by law to be elected in such years.

(b) Special election. “Special election” means any election other than a general election held at any time for any purpose provided by law.

(c) Qualified elector. A “qualified elector” means any person who is at least eighteen (18) years of age, is a United States citizen and who has resided in the city at least thirty (30) days next preceding the election at which he desires to vote and who is registered within the time period provided by law. A “qualified elector” shall also mean any person who is at least eighteen (18) years of age, is a United States citizen, who is a registered voter, and who resides in an area that the city has annexed pursuant to chapter 2, title 50, Idaho Code, within thirty (30) days of a city election.

(d) Residence.

(1) “Residence” for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence. In determining what is a principal or primary place of abode of a person the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, and motor vehicle registration.

(2) A qualified elector shall not be considered to have gained residence in any city of this state into which he comes for temporary purposes only without the intention of making it his home but with the intention of leaving it when he has accomplished the purpose that brought him there.

## ***Municipal Elections*** ***Selected Code Sections***

(3) A qualified elector who has left his home and gone to another area outside the city, for a temporary purpose only shall not be considered to have lost his residence.

(4) If a qualified elector moves outside the city, with the intentions of making it his permanent home, he shall be considered to have lost his residence in the city.

(e) Election official. "Election official" means the city clerk, registrar, judge of election, clerk of election, or county clerk engaged in the performance of election duties.

(f) Reference to male. All references to the male elector and male city officials include the female elector and female city officials and the masculine pronoun includes the feminine.

(g) Computation of time. Calendar days shall be used in all computations of time made under the provisions of this chapter. In computing time for any act to be done before any election, the first day shall be included and the last, or election day, shall be excluded. Saturdays, Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Saturday, Sunday or a legal holiday, such act shall be done upon the day following each Saturday, Sunday or legal holiday. (History: S.L. 1978, Ch. 329; S.L. 1982, Ch. 81; S.L. 1983, Ch. 45; S.L. 1994, Ch. 66; S.L. 2002, Ch. 75; S.L. 2009, Ch. 341)

**50-403. SUPERVISION OF ADMINISTRATION OF ELECTION LAWS BY COUNTY CLERK.** For each city, the county clerk of the county is the chief elections officer and shall exercise general supervision of the administration of the election laws in the city for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity. The county clerk shall meet with and issue instructions to election judges and clerks prior to the opening of the polls to ensure uniformity in the application, operation and interpretation of the election laws during the election. (History: S.L. 1978, Ch. 329; S.L. 2007, Ch. 202; S.L. 2009, Ch. 341)

**50-404. REGISTRATION OF ELECTORS.** All electors must register before being able to vote at any municipal election. The county clerk shall be the registrar for all city elections and shall conduct voter registration for each city pursuant to the provisions of chapter 4, title 34, Idaho Code. To be eligible to register to vote in city elections, a person shall be at least eighteen (18) years of age, a citizen of the United States and a resident of the city for at least thirty (30) days next preceding the election at which he desires to vote, or a resident of an area annexed by a city pursuant to the provisions of chapter 2, title 50, Idaho Code. (History: S.L. 1993, Ch. 379; S.L. 2009, Ch. 341)

**50-405. GENERAL AND SPECIAL CITY ELECTIONS.** (1) A general election shall be held in each city governed by this title, for officials as in this title provided, on the Tuesday following the first Monday of November in each odd-numbered year. All such officials shall be elected and hold their respective offices for the term specified and until their successors are elected and qualified. All other city elections that may be held under authority of general law shall be known as special city elections.

(2) On and after January 1, 2011, notwithstanding any other provisions of law to the contrary, there shall be no more than two (2) elections conducted in any city in any calendar year, except as provided in this section.

(3) The dates on which elections may be conducted are:

(a) The third Tuesday in May of each year; and

(b) The Tuesday following the first Monday in November of each year.

(c) In addition to the elections specified in paragraphs (a) and (b) of this subsection (3), an emergency election may be called upon motion of the city council of a city. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property.

(4) Pursuant to section 34-1401, Idaho Code, all municipal elections shall be conducted by the county

**Municipal Elections  
Selected Code Sections**

clerk of the county wherein the city lies, and elections shall be administered in accordance with the provisions of title 34, Idaho Code, except as those provisions are specifically modified by the provisions of this chapter. After an election has been ordered, all expenses associated with conducting municipal general and special elections shall be paid from the county election fund as provided by section 34-1411, Idaho Code. Expenses associated with conducting runoff elections shall be paid by the city adopting runoff elections pursuant to the provisions of section 50-612 or 50-707B, Idaho Code, or both.

(5) The secretary of state is authorized to provide such assistance as necessary, and to prescribe any needed rules or interpretations for the conduct of elections authorized under the provisions of this section. (History: S.L. 1978, Ch. 329; S.L. 1993, Ch. 379; S.L. 2009, Ch. 341)

**50-406. METHOD OF NOMINATION — CLERK TO FURNISH PRINTED FORMS.** Candidates for elective city offices shall be nominated by declaration. The declaration shall contain the name and address of the person and the office and the term for which he is being nominated. There shall be no mention relating to party or principal of the nominee. The completed declaration of candidacy shall be accompanied by: (1) a petition of candidacy signed by not less than five (5) registered qualified electors; or (2) a nonrefundable filing fee of forty dollars (\$40.00) which shall be deposited in the city treasury.

It shall be the duty of the city clerk to furnish upon application a reasonable number of regular printed forms, as herein set forth, to any person or persons applying therefor. The forms shall be of uniform size as determined by the clerk. (History: S.L. 1978, Ch. 329; S.L. 2002, Ch. 75; S.L. 2009, Ch. 341)

**50-407. FORM OF DECLARATION OF CANDIDACY.** Declarations of candidacy and petitions of candidacy shall read substantially as herein set forth. Any number of separate petitions of candidacy may be circulated at the same time for any candidate and all petitions for each candidate shall be considered one (1) petition when filed with the city clerk. Each signer of a petition shall be a registered qualified elector.

**DECLARATION OF CANDIDACY**

I, the undersigned, affirm that I am a qualified elector of the City of ....., State of Idaho, and that I have resided in the city for at least thirty (30) days. I hereby declare myself to be a candidate for the office of ....., for a term of .... years, to be voted for at the election to be held on the .... day of ....., ....., and certify that I possess the legal qualifications to fill said office, and that my residence address is .....

(Signed) .....

Subscribed and sworn to before me this .... day of ....., .....

.....

Notary Public

State of Idaho  
County of ..... ss.  
City of .....

**PETITION OF CANDIDACY**

OF .....,  
(NAME OF CANDIDATE)

FOR OFFICE OF .....

**Municipal Elections  
Selected Code Sections**

This petition must be filed in the office of the City Clerk not earlier than 8:00 a.m. on the eleventh Monday nor later than 5:00 p.m. on the ninth Friday immediately preceding election day. The submitted petition must have affixed thereto the names of at least five (5) qualified electors who reside within the appropriate city.

I, the undersigned, being a qualified elector of the City of ....., in the State of Idaho, do hereby certify and declare that I reside at the place set opposite my name and that I do hereby join in the petition of ....., a candidate for the office of ..... to be voted at the election to be held on the .... day of....., ....

Signature of Petitioner	Printed Name	Residence Address	Date Signed
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

STATE OF IDAHO  
County of .....

I, ....., being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age; that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence; I believe that each has stated his or her name and residence address correctly; and that each signer is a qualified elector of the State of Idaho, and the City of .....

Signed .....

Address .....

Subscribed and sworn to before me this ..... day of ....., ....

Signed Notary Public .....

Residing at .....

Commission expires .....

(Notary Seal)

(History: S.L. 1978, Ch. 329; S.L. 2002, Ch. 32; S.L. 2002, Ch. 75; S.L. 2006, Ch. 105; S.L. 2009, Ch. 341)

**50-410. TIME AND MANNER OF FILING DECLARATIONS.** (1) All declarations of candidacy for elective city offices shall be filed with the clerk of the respective city wherein the elections are to be held not earlier than 8:00 a.m. on the eleventh Monday nor later than 5:00 p.m. on the ninth Friday, immediately preceding election day. Before a candidate files a petition of candidacy with the city clerk, the petition signatures shall be verified by the county clerk in the manner described in section 34-1807, Idaho Code, except that the city clerk shall stand in place of the secretary of state. Before any declaration of candidacy and filing fee or petition of candidacy mentioned in section 50-407, Idaho Code, can be filed, the city clerk shall ascertain that it conforms to the provisions of chapter 4, title 50, Idaho Code. The city clerk shall not accept any declarations of candidacy after 5:00 p.m. on the ninth Friday immediately preceding election day. Write-in candidates shall be governed by section 34-702A, Idaho Code, but shall file the declarations

## ***Municipal Elections*** ***Selected Code Sections***

required in that section with the city clerk.

(2) A person shall not be permitted to file a declaration of candidacy for more than one (1) office in any city election. (History: S.L. 1978, Ch. 329; S.L. 1989, Ch. 64; S.L. 1996, Ch. 337; S.L. 1998, Ch. 240; S.L. 2002, Ch. 75; S.L. 2006, Ch. 105; S.L. 2009, Ch. 341; S.L. 2014, Ch. 162)

**50-411. NOTICE OF CANDIDATE FILING DEADLINE.** Not more than fourteen (14) nor less than seven (7) days preceding the candidate filing deadline for an election, the city clerk shall cause to be published in the official newspaper a notice of the forthcoming candidate filing deadline. The notice shall state the name of the city, the date of the election, the offices up for election, that declarations of candidacy are available from the city clerk, and the deadline for filing such declarations with the city clerk. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-412. CANVASSING VOTES — DETERMINING RESULTS OF ELECTION.** The county commissioners, within ten (10) days following any election, shall meet for the purpose of canvassing the results of the election. Upon receipt of tabulation of votes prepared by the election judges and clerks, and the canvass as herein provided, the results of both shall be entered in the minutes of city council proceedings. Results of election shall be determined as follows: in the case of a single office to be filled, the candidate with the highest number of votes shall be declared elected; in the case where more than one (1) office is to be filled, that number of candidates receiving the highest number of votes, equal to the number of offices to be filled, shall be declared elected. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341; S.L. 2014, Ch. 162)

**50-413. TIE VOTES.** In case of a tie vote between candidates, the city clerk shall give notice to the interested candidates to appear before the council at a meeting to be called within six (6) days at which time the city clerk shall determine the tie by a toss of a coin. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-414. FAILURE TO QUALIFY CREATES VACANCY.** If a person elected fails to qualify, a vacancy shall be declared to exist, which vacancy shall be filled by the mayor and the council. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-415. CERTIFICATES OF ELECTION.** A certificate of election for each elected city official or appointee to fill such position shall be made under the corporate seal by the city clerk, signed by the mayor and clerk, and presented to such officials at the time of subscribing to the oath of office. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-416. APPLICATION FOR RECOUNT OF BALLOTS.** Any candidate desiring a recount of the ballots cast in any general city election may apply to the attorney general therefor, within twenty (20) days of the canvass of such election by the county board of canvassers. The provisions of chapter 23, title 34, Idaho Code, shall govern recounts of elections held under this chapter. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-417. RECALL ELECTIONS.** Recall elections shall be governed by the provisions of chapter 17, title 34, Idaho Code, except as those provisions may be specifically modified by the provisions of this chapter. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-418. INITIATIVE AND REFERENDUM ELECTIONS.** Initiative and referendum elections shall be governed by the provisions of chapter 18, title 34, Idaho Code, and chapter 5, title 50, Idaho Code, except

***Municipal Elections***  
***Selected Code Sections***

as those provisions are specifically modified by this chapter. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-419. ELECTION LAW VIOLATIONS.** The provisions of chapter 23, title 18, Idaho Code, pertaining to crimes and punishments for election law violations are applicable to all municipal elections. (History: S.L. 1978, Ch. 329; S.L. 2009, Ch. 341)

**50-420. [REPEALED - S.L. 2019, Ch. 288]**

Title 50 - Municipal Corporations  
Chapter 5 - Initiative — Referendum — Recall

**50-501. [Repealed - S.L. 2015, Ch. 285]**

Title 50 - Municipal Corporations  
Chapter 6 - Mayor

**50-601. QUALIFICATIONS.** Any person shall be eligible to hold the office of mayor who is a qualified elector of the city at the time his declaration of candidacy or declaration of intent is submitted to the city clerk and remains a qualified elector during his term of office.

The term of office of mayor shall be for a period of four (4) years except as otherwise specifically provided. He shall take office at the time and in the manner provided for installation of councilmen. (History: S.L. 1967, Ch. 429; S.L. 2002, Ch. 75)

**50-608. VACANCY IN THE OFFICE OF MAYOR.** In case of a temporary vacancy in the office of mayor due to absence or disability, the president of the council shall exercise the office of mayor during such disability or temporary absence, and until the mayor shall return. When a vacancy occurs in the office of mayor by reason of death, resignation or permanent disability, the city council shall fill the vacancy from within or without the council as may be deemed in the best interests of the city, which appointee shall serve until the next general city election, at which election a mayor shall be elected for the full four (4) year term. (History: S.L. 1967, Ch. 429)

**50-612. MAJORITY REQUIRED FOR ELECTION — RUNOFF ELECTION.** A city may, by ordinance, provide that a majority of the votes for any candidate running for the office of mayor shall be required for election to that office. In the event no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted by the county clerk as in the general election in a manner consistent with chapter 14, title 34, Idaho Code, and at such time, within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-405, Idaho Code. The ballot shall be prepared by the county clerk not less than twenty-two (22) days preceding the runoff election. The designation of polling places shall be made by the county commissioners not less than twenty (20) days preceding any runoff election and sample ballots shall be printed not less than eighteen (18) days preceding the runoff election. (History: S.L. 1985, Ch. 209; S.L. 1992, Ch. 176; S.L. 2002, Ch. 75; S.L. 2006, Ch. 105; S.L. 2009, Ch. 341)

Title 50 - Municipal Corporations  
Chapter 7 - Council

**50-701. COMPOSITION — POWERS.** The legislative authority of each city in the state of Idaho, except those operating under the provisions of section[s] 50-801 through 50-812 shall be vested in a

## ***Municipal Elections*** ***Selected Code Sections***

council consisting of either four (4) or six (6) members, one half (1/2) of whom shall be elected at each general city election. Councils shall have such powers and duties as are now or may hereafter be provided under the general laws of the state of Idaho. (History: S.L. 1967, Ch. 429)

**50-702. QUALIFICATIONS OF COUNCILMEN — TERMS — INSTALLATION.** Any person shall be eligible to hold the office of councilman of his city who is a qualified elector at the time his declaration of candidacy or declaration of intent is submitted to the city clerk, and remains a qualified elector under the constitution and laws of the state of Idaho. Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council. (History: S.L. 1967, Ch. 429; S.L. 2002, Ch. 75)

**50-703. CHANGE IN NUMBER OF COUNCILMEN.** (1) Any city may change to the greater or lesser number of councilmen after an election instituted by resolution of the council or by petition as provided for initiative in chapter 18, title 34, Idaho Code. When the proposition submitted to the electors shall receive a favorable vote, officials shall be elected at the succeeding general city election, provided however, that should such election be conducted in a year when no general city election is to be held, such new positions shall be filled by appointment within thirty (30) days.

(a) When the number of councilmen to be elected is to be reduced from six (6) to four (4), there shall be elected one (1) councilman to serve a term of four (4) years. At the next succeeding general city election, there shall be elected two (2) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

(b) When the number of councilmen to be elected is to be increased from four (4) to six (6), there shall be elected three (3) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

(2) Any city operating under the city manager form of government may change to the greater or lesser number of councilmen after an election instituted under subsection (1).

(a) When the number of councilmen to be elected is to be reduced from seven (7) to five (5):

(i) If there are four (4) councilmen up for election at the next general city election, there shall be elected two (2) councilmen, each to serve a term of four (4) years.

(ii) If there are three (3) councilmen up for election at the next general city election, there shall be elected one (1) councilman, to serve a term of four (4) years. At the next succeeding general city election, there shall be elected three (3) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

(b) When the number of councilmen to be elected is to be increased from five (5) to seven (7):

(i) If there are two (2) councilmen up for election at the next general city election, there shall be elected four (4) councilmen, each to serve a term of four (4) years.

(ii) If there are three (3) councilmen up for election at the next general city election, there shall be elected four (4) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years. (History: S.L. 1967, Ch. 429; S.L. 1972, Ch. 16; S.L. 2018, Ch. 169)



## ***Municipal Elections*** ***Selected Code Sections***

**50-704. VACANCIES — APPOINTMENT.** A vacancy on the council shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next general city election, at which such vacancy shall be filled for the balance of the original term. (History: S.L. 1967, Ch. 429)

**50-707. ASSIGNMENT OF COUNCIL SEATS.** Any city, by ordinance, may assign a number to each council seat. Upon the adoption of such an ordinance, and at least one hundred twenty (120) days prior to the next general election, the city clerk shall assign a number for each council seat. Any candidate seeking election to the council shall file for one (1) of the assigned council seats. (History: S.L. 1984, Ch 108)

**50-707A. ELECTION OF COUNCILMEN BY DISTRICTS.** (1) Any city may, by ordinance, provide for districts and the election of councilmen by districts. Upon the adoption of such an ordinance and at least one hundred twenty (120) days prior to each general election, the governing body of the city shall establish the territory of council districts in accordance with this section.

(2) Each district shall consist of one or more contiguous election precincts and each district shall, to the nearest extent possible, contain the same number of people based upon the most recent federal census.

(3) Each city providing for the election of councilmen by districts shall establish the number of districts corresponding to the number of council seats determined by the city pursuant to section 50-701, Idaho Code, or for any city having a governing body governed by the provisions of sections 50-801 through 50-812, Idaho Code, the number of council seats determined by the city pursuant to section 50-805, Idaho Code.

(4) Upon adoption of such an ordinance, a council shall determine, not less than ninety (90) days before the next general city election, if council members are to be elected by electors from the entire city, or by the electors of the said geographic district. The council shall also determine, not less than ninety (90) days before the next general election, the method of the implementation of this ordinance. (History: S.L. 1984, Ch. 108)

**50-707B. MAJORITY MAY BE REQUIRED FOR ELECTION — RUNOFF ELECTION.** A city may, by ordinance, provide that a majority of the votes for any candidate running for a council seat adopted by a city in accordance with section 50-707 or 50-707A, Idaho Code, shall be required for election to that office. In the event no candidate receives a majority of the votes cast, there shall be a runoff election between the two (2) candidates receiving the highest number of votes cast. Such runoff election shall be conducted by the county clerk as in the general election in a manner consistent with chapter 14, title 34, Idaho Code, and at such time within thirty (30) days of the general election, as prescribed by the city and shall be exempt from the limitation upon elections provided in sections 34-106 and 50-405, Idaho Code. The ballot shall be prepared by the county clerk not less than twenty-two (22) days preceding the runoff election. The designation of polling places shall be made by the county commissioners not less than twenty (20) days preceding any runoff election, and sample ballots shall be printed not less than eighteen (18) days preceding the runoff election. (History: S.L. 1984, Ch. 108; S.L. 2002, Ch. 75; S.L. 2006, Ch. 105; S.L. 2009, Ch. 341)

Title 50 - Municipal Corporations  
Chapter 8 - Council - Manager Plan

**50-802. INSTITUTING ELECTION, PETITION — RESOLUTION.** Procedure for instituting a special election on adoption of the council-manager plans shall be by petition of electors as provided for initiative

## ***Municipal Elections*** ***Selected Code Sections***

in section 34-1801B, Idaho Code, or by resolution passed by one-half (1/2) plus one (1) of the members of the full council. (History: S.L. 1967, Ch. 429; S.L. 1984, Ch. 156; S.L. 2015, Ch. 285)

**50-803. TIME FOR HOLDING SPECIAL ELECTION ON PROPOSITION.** Within ten (10) days after the filing of such petition or resolution with the city clerk, the mayor shall, by proclamation, establish a date for holding a special election on the question of adopting the council-manager plan, such date to be determined as follows:

(1) When the petition or resolution is filed with the city clerk during a year when no general city election is to be held, such election shall be held on the date authorized in section 34-106, Idaho Code, that is nearest to but not less than sixty (60) days following filing of such petition or resolution;

(2) When the petition or resolution is filed with the city clerk during a year when a general city election is to be held, such election shall be held on the date for holding general city elections. (History: S.L. 1967, Ch. 429; S.L. 1984, Ch. 156; S.L. 2009, Ch. 341)

**50-804. PROPOSITION TO BE VOTED.** At such election the proposition to be submitted to the electors shall be: "Shall the City of .... adopt the council-manager plan of government, as set forth in sections 50-801 through 50-812, Idaho Code?" (History: S.L. 1967, Ch. 429; S.L. 1984, Ch. 156)

**50-805. GOVERNING BODY — SIZE.** The governing body of any city governed by the provisions of sections 50-801 through 50-812 shall consist of five (5) or seven (7) councilmen. Should the proposition be adopted under section 50-804, the governing body shall consist of a council equal in number to the councilmen plus the mayor under the existing form of government, unless subsequently changed as provided by section 50-703. (History: S.L. 1967, Ch. 429)

**50-806. ELECTION OF OFFICIALS FOLLOWING ADOPTION — DETERMINING SUCCESSFUL CANDIDATES — DESIGNATION OF SEATS.** (1) When the proposition is submitted to the electors under section 50-803(1), Idaho Code, officials shall be elected at the same election during which the proposition is submitted to the voters; when the proposition submitted to the electors under subsection (2) of section 50-803, Idaho Code, officials shall be elected at the same general city election. If any proposition submitted to the electors under section 50-803, Idaho Code, fails to receive a favorable vote, the election of officials at the same election shall be declared null and void.

Determination of successful candidates at either a special or general election shall be as herein provided: A. When the council is to consist of five (5) members, the three (3) receiving the largest number of votes shall be declared elected to serve four (4) year terms or so much thereof as remains, and two (2) to serve two (2) year terms or so much thereof as remains; B. When the council is to consist of seven (7) members, the four (4) receiving the largest number of votes shall be declared elected to serve four (4) year terms or so much thereof as remains, and three (3) to serve two (2) year terms or so much thereof as remains. At each general city election thereafter, councilmen shall be elected to fill the unexpired terms.

(2) By ordinance, the city may assign a number to each council seat. In that event candidates will file for a designated seat and the candidate receiving the largest number of votes for the seat he has filed for shall be declared elected. (History: S.L. 1967, Ch. 429; S.L. 1981, Ch. 158; S.L. 2009, Ch. 341)

**50-807. EFFECTIVE DATE FOLLOWING ADOPTION OF PLAN.** The effective date of the council-manager plan shall be not more than seventy-five (75) days following the election of officials, to be determined by the incumbent council. (History: S.L. 1967, Ch. 429; S.L. 1984, Ch. 156)

**50-812. DISCONTINUANCE OF COUNCIL-MANAGER PLAN — PROPOSITION TO BE VOTED.** Any city which shall have operated for more than six (6) years under the provisions of sections 50-801

## ***Municipal Elections Selected Code Sections***

through 50-812, Idaho Code, may resume operation under sections 50-601 through 50-708, Idaho Code, by proceedings held as sections 50-801 through 50-812, Idaho Code, provide for adoption of the council-manager plan. The proposition to be submitted shall be: "Shall the City of .... retain its organization under the 'council-manager plan'?" (History: S.L. 1967, Ch. 429; S.L. 1984, Ch. 156)

**50-813. CALCULATION FOR NUMBER OF REQUIRED SIGNATURES.** In cases where a city is operating under the council-manager plan, if there is no direct mayoral election, and a statute provides for petitions or elections based upon the total number of votes cast for mayor at the last preceding city election, the calculation of signatures or votes necessary under state law shall be based upon the total number of votes cast for the city councilman who received the highest number of votes at the last preceding city election. (History: S.L. 1978, Ch. 257; S.L. 1984, Ch. 156)

### Title 50 - Municipal Corporations Chapter 10 - Finances

**50-1026. CITY BONDS — ORDINANCE — ELECTION.** Whenever the city council of a city shall deem it advisable to issue the coupon bonds of such city, the mayor and council shall provide therefor by ordinance, which shall specify and set forth all the purposes, objects, matters and things required by section 57-203, Idaho Code, and make provision for the collection of an annual tax sufficient to pay the interest on such proposed bonds as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting the same as required by the constitution and laws of the state of Idaho.

The ordinance shall also provide the date for holding an election that is in accordance with the dates authorized in section 50-405, Idaho Code, which falls more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held. Notice shall be given in the official newspaper of the city by the county clerk in accordance with election law in title 34, Idaho Code. Such election shall be conducted as other city elections. The voting at such elections must be by ballot, and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of.... dollars for the purpose stated in Ordinance No.....," and "Against issuing bonds to the amount of.... dollars for the purpose stated in Ordinance No....." If at such election, held as provided in this chapter, two-thirds (2/3) of the qualified electors voting at such election assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purpose aforesaid, such bonds shall be issued in the manner provided by the laws of the state of Idaho. (History: S.L. 1967, Ch. 429; S.L. 1971, Ch. 25; S.L. 2009, Ch. 341; S.L. 2011, Ch. 11)

**50-1026A. CITY BONDS — PLEDGE OF REVENUES.** (a) In the ordinance required in section 50-1026, Idaho Code, providing for the issuance of bonds of a city to be issued to acquire, improve, construct or extend a revenue producing system or facility to be owned and operated by the city, the city council may pledge, as an additional source of payment of such bonds, all or any part of the revenues derived or to be derived from rates, fees, tolls, or charges imposed for the services, facilities, or commodities furnished by the revenue producing system or facility to be so acquired, improved or extended.

(b) The notice of the election on bonds provided for in section 50-1026, Idaho Code, shall describe any pledge of revenues made pursuant to this section. The proposition appearing on the ballot provided for in section 50-1026, Idaho Code, shall indicate that the bonds are to be additionally secured by a pledge of revenues of designated revenue producing systems or facilities owned and operated by the city.

(c) The city council of a city may, in the ordinance required in section 50-1026, Idaho Code, providing for the issuance of bonds to which revenues have been pledged as provided in this section, covenant to

## ***Municipal Elections*** ***Selected Code Sections***

prescribe and collect reasonable rates, fees, tolls or charges for the services, facilities, or commodities furnished by any revenue producing system or facility owned and operated by the city, all or a portion of the revenues of which have been pledged to bonds of the city as provided in this section, and may covenant to prescribe and collect such rates, fees, tolls or charges as will produce revenues sufficient, in addition to any other requirements of law, to pay all or a portion of the maturing principal of an interest on the bonds to which such revenues have been pledged.

(d) The provisions of section 57-214, Idaho Code, to the contrary notwithstanding, bonds of a city to which revenues have been pledged as provided in this section, if issued to provide electric improvements or facilities, may be sold in such manner and at such price as the city council may in its discretion determine advisable, provided that such bonds may not be issued to acquire generation, transmission, or distribution facilities owned by other utilities without the consent of the utility owning the improvement or facility. Bonds of a city to which revenues have been pledged as provided in this section may be issued in coupon or registered form. The city council may provide for the use of a portion of the proceeds of sale of bonds to which revenues have been pledged as provided in this section to pay interest on the bonds during the period to be covered by the construction of the facility or improvement for which the bonds are to be issued and to establish such reserves as the city council shall deem to be necessary.

(e) The provisions of section 50-1041, Idaho Code, shall not apply to bonds of a city to which revenues have been pledged as provided in this section. Such bonds shall be deemed not to have been issued under the revenue bond act. (History: S.L. 1981, Ch. 218; S.L. 1982, Ch. 366)

**50-1035. ORDINANCE PRIOR TO CONSTRUCTION — ELECTION.** Before any city shall construct or acquire any works or rehabilitated existing electrical generating facilities under this chapter, the council of such city shall enact an ordinance or ordinances which shall, (a) set forth a brief and general description of the works or rehabilitated existing electrical generating facilities, and if the same are to be constructed, a reference to the preliminary report or plans and specifications which shall theretofore have been prepared and filed by an engineer chosen for that purpose; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works or the rehabilitation of such existing electrical generating facilities; (d) direct that revenue bonds of the city shall be issued pursuant to this chapter in such amount as may be necessary to pay the cost of the works or rehabilitated existing electrical generating facilities; and (e) contain such other provisions as may be necessary in the proposal.

Such ordinance shall be passed, approved and published as provided by law for the enactment of general ordinances, but such city shall not incur or authorize in any year any indebtedness or liability under said ordinance exceeding in that year, the income and revenue provided for it for such year, without the assent of two-thirds (2/3) of the qualified electors of such city voting at an election held for the purpose of authorizing or refusing to authorize the indebtedness or liability provided for in said ordinance; provided, that any city may, with the assent of a majority of the qualified electors voting at an election to be held for such purpose, issue revenue bonds for the purpose of providing funds to own, purchase, construct, extend or equip, within and without the corporate limits of such city, water systems, sewerage systems, water treatment plants, sewerage treatment plants, electric systems, or to rehabilitate existing electrical generating facilities, the principal and interest of which to be paid solely from the revenue derived from rates and charges for the use of, and the service rendered by such systems, plants and facilities. In accordance with section 3E, article VIII of the constitution of the state of Idaho, any political subdivision of the state or regional airport authority as defined by law, operating an airport may issue revenue bonds payable solely from fees, charges, rents, payments, grants or any other revenues derived from or relating to airport facilities and air navigation facilities to finance the costs of acquiring, constructing, installing and equipping airport facilities and air navigation facilities and such bonds shall not be secured by the full faith and credit or the taxing power of the political subdivision of the state or regional airport authority as

## ***Municipal Elections Selected Code Sections***

defined by law.

Said ordinances shall provide for the holding of said election in accordance with the dates authorized in section 50-405, Idaho Code, by the county clerk in accordance with the provisions of title 34, Idaho Code. The notice of election shall set forth the purpose of said ordinance, the amount of bonds authorized by it, the maximum number of years from their respective dates for which such bonds may run, the voting places, the hours between which the polls will be open and the qualifications of voters who may vote thereat. In all other respects such election shall be conducted as are other city elections. The voting at such elections must be by ballot, and the ballots used shall be substantially as follows:

“In favor of issuing revenue bonds for the purposes provided by Ordinance No. ....”

“Against the issuance of revenue bonds for the purposes provided by Ordinance No. ....”

If, at such election, the required vote is in favor of issuing such revenue bonds, then such city may issue such bonds and create such indebtedness or liability in the manner and for the purpose specified in said ordinance. (History: S.L. 1967, Ch. 429; S.L. 1973, Ch. 40; S.L. 1977, Ch. 50, 1981, Ch. 300; S.L. 2009, Ch. 341; S.L. 2011, Ch. 129)

**50-1035A. ISSUANCE OF REVENUE BONDS AT RATES OF INTEREST IN EXCESS OF ORIGINAL SPECIFICATION.** Any city may issue revenue bonds of the city bearing interest at such rate or rates as shall be prescribed by ordinance if:

(a) The principal amount of such revenue bonds does not exceed the then unissued balance of the principal amount of revenue bonds of the same type authorized at an election heretofore held in the city;

(b) The revenue bonds are issued for the same purpose as that for which the unissued bonds were authorized; and

(c) The bonds are issued in accordance with the provisions of the revenue bond act; provided, that an election shall have been held and conducted in the manner provided in section 50-1035, Idaho Code, on the proposition of issuing revenue bonds under the provisions of this section at a rate or rates of interest in excess of the maximum rate of interest specified in the notice of election at which the unissued bonds were authorized and the proposition shall have been approved by the same percentage of the qualified electors of the city voting at the election as was required in section 50-1035, Idaho Code, at the election at which the unissued bonds were authorized. (History: S.L. 1981, Ch. 300)

**50-1044. AUTHORITY FOR RESORT CITY RESIDENTS TO APPROVE AND RESORT CITY GOVERNMENTS TO ADOPT, IMPLEMENT AND COLLECT CERTAIN CITY NONPROPERTY TAXES.**

The voters of any resort city with a population not in excess of ten thousand (10,000) according to the most recent census within the state of Idaho, organized under the general laws of the state, special charter, or a general incorporation act, are hereby given the freedom to authorize their city government to adopt, implement and collect one (1) or more local-option nonproperty taxes as provided herein. A resort city is a city that derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to that destination city for an extended period of time. The corporate authorities of any such resort city are hereby given the freedom and authority to adopt, implement and collect one (1) or more local-option nonproperty taxes as provided herein, if approved by the required majority of city voters voting in an election as provided herein. No local-option nonproperty tax proposal may be presented to resort city voters for approval or modification for a period of eleven (11) months after an election to approve or disapprove such tax. The election may be a special election conducted for the exclusive purpose of approving or disapproving such tax or may be conducted as a part of any other special or general city election. (History: S.L. 1978, Ch. 261; S.L. 1981, Ch. 328; S.L. 2013, Ch. 135)

## ***Municipal Elections*** ***Selected Code Sections***

**50-1046. CITY LOCAL-OPTION NONPROPERTY TAXES PERMITTED BY SIXTY PER CENT MAJORITY VOTE.** A sixty per cent (60%) majority of the voters of any resort city voting on the question may approve and, upon such approval, any city may adopt, implement, and collect, subject to the provisions of this act, the following city local-option nonproperty taxes: (a) an occupancy tax upon hotel, motel, and other sleeping accommodations rented or leased for a period of thirty (30) days or less; (b) a tax upon liquor by-the-drink, wine and beer sold at retail for consumption on the licensed premises; and (c) a sales tax upon part or all of sales subject to taxation under chapter 36, title 63, Idaho Code. (History: S.L. 1978, Ch. 261; S.L. 1984, Ch. 225)

### Title 50 - Municipal Corporations Chapter 21 - Consolidation of Cities

**50-2101. CONSOLIDATION OF CITIES.** Two (2) or more cities, each one of which is contiguous to the other, or to one of the other of said cities, all of which shall be incorporated under general law, may become consolidated into one (1) city, to be thereafter governed in the name and under the government of the greater or greatest in population, as shown by the last federal census, pursuant to proceedings had and taken in accordance with the provisions of sections 50-2101 through 50-2114. (History: S.L. 1967, Ch. 429)

**50-2102. RESOLUTION FOR JOINT SESSION OF GOVERNING BODIES.** The mayor and council of any city, desiring consolidation with the adjacent city or cities, may institute proceedings for consolidating by passing a resolution wherein it shall be stated that such city desires to be consolidated with the adjacent city or cities and shall also request the governing body or bodies of such adjacent city or cities to fix a time and place for a joint session of the governing bodies of the cities to consider consolidation. (History: S.L. 1967, Ch. 429)

**50-2103. PETITION FOR CONSOLIDATION.** The citizens of one or more contiguous cities may institute proceedings for consolidation by petition. Upon receiving a petition for consolidation by either of the cities proposed to be consolidated, which petition shall be signed by registered electors of the city equal in number to twenty percent (20%) of the number of electors registered to vote at the last general city election held in the city for the election of officers, the clerk shall duly record the same and give notice to each of the cities proposed to be consolidated. Within thirty (30) days following the giving of notice, it shall be incumbent on the council(s) to proceed as hereinafter provided. (History: S.L. 1967, Ch. 429; S.L. 1987, Ch. 136)

**50-2104. JOINT SESSION — RESOLUTION SPECIFYING TIME OF ELECTION.** When a majority of the governing bodies of each of the cities desires consolidation, or petitions signed by the requisite number of qualified electors in each city have been duly received and recorded by each city, a joint resolution signed by the respective mayors, shall set a time for a special election to be held in each of the cities desiring consolidation. The election shall be held on the next date authorized by section 50-405, Idaho Code, which is more than forty-five (45) days after final adoption, of the joint resolution. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2105. SUBMISSION OF QUESTION TO ELECTORS — ELECTION.** In each of the cities proposed to be consolidated, on the date fixed by resolution, there shall be held an election for the purpose of submitting to the qualified electors of each of said cities, the question whether such cities shall become consolidated into one (1) city. (History: S.L. 1967, Ch. 429; S.L. 2007, Ch. 202; S.L. 2009, Ch. 341)

## ***Municipal Elections Selected Code Sections***

**50-2106. RESULTS OF ELECTION CERTIFIED TO SECRETARY OF STATE.** If a majority of the qualified electors of each city vote in favor of consolidation, the county clerk shall certify the results of the election to the board of county commissioners. The county clerk shall transmit the original abstract of the results of the election to the board of county commissioners. The county clerk shall thereupon transmit the original abstract of the results of the election to the office of the secretary of state. Upon receipt of the original abstract, the secretary of state shall transmit to the county clerk a certificate indicating that the original abstract has been received and filed in his office. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2107. ELECTION OF OFFICERS OF CONSOLIDATED CORPORATIONS.** In the event that the majority of the votes cast by the electors of each and all such cities proposed to be consolidated shall favor consolidation, the city shall proceed to call an election to be held in all the cities so proposed to be consolidated for the election of officers of the new corporation. Such election shall be held on the next date authorized by section 50-405, Idaho Code, which is more than forty-five (45) days after receipt of the original abstract by the secretary of state. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2108. EFFECTIVE DATE.** From and after the date of filing an abstract of results of election of officials with the secretary of state, such consolidation shall be deemed to be completed, and such cities shall be deemed to be consolidated into a new corporation under the name of the corporation of the greater or greatest population, and thereupon such new corporation shall be governed in the name of and under the laws and ordinances applicable to such larger or largest city. The officials elected at a special election shall be immediately entitled to enter upon the duties of their respective offices, upon qualifying in accordance with law, and shall hold said offices respectively only until the next general city election in such newly consolidated city, and until their successors are elected and qualified. At the first general city election following the effective date of such newly consolidated city, one-half (1/2) of the city council shall be elected for two (2) year terms, and one-half (1/2) shall be elected for four (4) year terms. The mayor, at such first general city election, shall be elected for a four (4) year term. (History: S.L. 1967, Ch. 429)

**50-2114. EXPENSES OF CONSOLIDATION.** All proper expenses of proceedings for consolidation shall, if the consolidation is made and completed, be paid by the consolidated city; with the exception of costs of conducting the election, which shall be paid by the county. If consolidation is not completed, each city shall pay its respective share of the expenses of the proposed consolidation, with the exception of the costs of conducting the election, which shall be paid by the county. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

### Title 50 - Municipal Corporations Chapter 22 - Disincorporation Procedure

**50-2201. PETITION FOR DISINCORPORATION.** A city existing under the laws of this state may disincorporate after proceedings had as required by sections 50-2201 through 50-2213, Idaho Code. The council shall, upon receiving a petition therefor, signed by not less than one-half (1/2) of the qualified electors thereof as shown by the vote cast at the last general city election held therein, submit the question of whether such city shall disincorporate to the electors of such corporation. In case such council shall cease to exist or fail to function for a period of two (2) years or more, the petition for said disincorporation of such city signed by a majority of the residents living within said city, shall be filed with the board of county commissioners of the county in which said city is situated. Upon the filing of such petition, showing that the council has failed to function for at least two (2) years prior thereto or has ceased to exist, such board of county commissioners shall have full power and authority to take all proceedings therein as it is

## ***Municipal Elections Selected Code Sections***

authorized by sections 50-2201 through 50-2213, Idaho Code, to disincorporate said city. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2202. ELECTION TO DETERMINE QUESTION.** The question of disincorporation shall be submitted at an election on the next date authorized by section 50-405, Idaho Code, which is more than forty-five (45) days after the election called by the city council or board of county commissioners. Notice of the election shall be published pursuant to the requirements of section 34-1406, Idaho Code, along with two (2) additional notices published weekly. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2203. CANVASS OF VOTE.** The vote at such election shall be taken, canvassed and returned in the same manner as in other elections. The county board of canvassers shall meet within ten (10) days of such election and proceed to canvass the votes cast thereat. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2204. EFFECT OF NEGATIVE VOTE.** If it is found by the canvass of said votes that less than two-thirds (2/3) of the votes cast were in favor of disincorporation, the county board of canvassers shall declare the petition for disincorporation denied, in which case no other election shall be held on the question of disincorporating said city until after the expiration of two (2) years from the date of the election so held. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2205. PROCEEDINGS UPON AFFIRMATIVE VOTE — ORDER OF DISINCORPORATION.** In case it shall appear from said canvass that two thirds (2/3) of all the votes cast were in favor of disincorporation, said county commission shall, under their hands make and file in their office, and cause to be entered upon their record or proceedings, an order that the petition for such disincorporation be granted, and declaring that said corporation be disincorporated, said order to take effect thirty (30) days from and after the holding of the election. (History: S.L. 1967, Ch. 429)

### Title 50 - Municipal Corporations Chapter 23 - Reorganization Procedure

**50-2302. PETITION FOR ORGANIZATION UNDER GENERAL LAWS — ELECTION.** Upon receipt of a petition signed by registered qualified electors equal in number to twenty-five percent (25%) of the total number of voters casting ballots at the last preceding general city election, the governing body shall by resolution issued within ten (10) days after filing of said petition, submit to the qualified electors of the city the question of organizing as a city, under this chapter, and the general laws of the state of Idaho. The election shall be held on the next date authorized by section 50-405, Idaho Code, which is more than forty-five (45) days after adoption of the resolution by the city council. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2303. SUBMISSION OF PROPOSITION TO ELECTORATE — FILING OF CERTIFICATES — PROCLAMATION OF GOVERNOR.** At such election, conducted under this chapter, the proposition to be submitted to the electors shall be substantially: "Shall the proposition to organize the City of (name of city) as a city under this chapter, and the general laws of the state of Idaho be adopted?". An election thereupon shall be conducted, the vote canvassed, and the result declared in the same manner as



## ***Municipal Elections*** ***Selected Code Sections***

provided by law in respect to other city elections. Immediately after, if such proposition be adopted, the county clerk shall transmit a certified statement with the date on which such proposition was adopted: to the governor; to the secretary of state; and to the county auditor of the county in which such city is located.

Upon receipt of said statement, the governor shall thereupon by public proclamation declare that such city shall cease to function under its previous organization, and shall henceforth be governed by this chapter, and the general laws of the state of Idaho. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

**50-2304. GOVERNING BODY TO CONTINUE IN OFFICE.** If a majority of the votes cast shall be in favor of the city becoming a city as provided in said election, then the governing body of such city organized under special charter or general incorporating act shall continue to hold office and function as the governing body of the city with all the powers, authority and duties granted a city under the general laws of the state of Idaho thereunto pertaining and shall continue to act until the officers provided for a city by this act, and the general laws of the state of Idaho shall be elected at the next general city election succeeding the issuance of the proclamation of the governor, as herein provided. (History: S.L. 1967, Ch. 429)

**50-2305. EFFECT OF ELECTION — OFFICIALS.** Immediately upon the proclamation by the governor the authority of the governing body under the special charter or general incorporating act shall cease, and said officials shall have such powers and duties as are provided under this act, and the general laws of the state of Idaho. (History: S.L. 1967, Ch. 429)

**50-2308. ELECTION OF OFFICERS.** If a majority of the votes cast shall be in favor of the city becoming organized under the general laws of the state of Idaho, the next general city election succeeding the issuance of said proclamation by the governor shall in all respects be conducted in the manner required for conducting elections in cities under the general laws of the state of Idaho. The officers elected at such election shall be the same as are provided in this chapter, and the governing body of the city, holding office at the time of issuance of such proclamation, shall have full power to prescribe such rules and regulations not in conflict with the general laws of the state for the holding of such election as may be necessary for carrying into effect the provisions of sections 50-2301 through 50-2308, Idaho Code. (History: S.L. 1967, Ch. 429; S.L. 2009, Ch. 341)

*This page intentionally left blank.*

## **Recreation District Elections Frequently Asked Questions**

### **When are recreation district elections held?**

Elections of directors of recreation districts are held on the first Tuesday following the first Monday in November in odd-numbered years. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (31-4306, 34-106, Idaho Code)

### **How many directors are elected in a recreation district and what are their terms of office?**

Each recreation district is governed by a board of three (3) directors. At any time after creation of the district, the board of directors may, by resolution, increase the size of the board from three members to five members. The resolution must provide for designation of five director's subdistricts. No more than one director can reside in the same subdistrict. Each commissioner is elected on a district wide basis and serves a term of four (4) years. (31-4305, Idaho Code)

### **How do I know if I'm eligible to vote in a recreation district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The county clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. (31-4303, 31-4307, 34-104, 34-1402, Idaho Code)

### **What are the requirements if I want to run for recreation district commissioner?**

Commissioner candidates must be qualified electors and a resident within the district. Not more than one (1) director shall reside in the same subdistrict.

Candidates for election as a recreation district director file nominating petitions which include the name of the candidate, the subdistrict that the candidate is running in and signatures of at least five (5) electors from the subdistrict.

The Declaration of Candidacy and Petition of Candidacy forms are available from and are filed with the clerk of the district. However, forms are also available from the County Clerk's Election Office.

The nomination must be filed no later than 5:00 p.m. on the ninth Friday preceding the election for which the nomination is made. The clerk of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. (31-4305, 34-1404, Idaho Code; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

The county clerk administers recreation district elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code.

The county clerk performs all necessary duties of the election of a recreation district including, but not limited to, publishing the notice of the filing deadline and the notice of the election, and preparation of the election calendar. (31-4306, 34-1401, Idaho Code)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the secretary of the district not less than forty-five (45) days before the election. The Declaration of Intent forms are available from the secretary of the district or the County Clerk's Election Office. (31-4306, 34-1407, Idaho Code)

## **Recreation District Elections Frequently Asked Questions**

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a position to be filled, no election will be held. The board of the directors shall no later than seven (7) days before the election day declare the candidate to be elected and the secretary of the recreation district board shall immediately make and deliver a certificate of election to the candidate. *(31-4306, 34-1407, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the recreation district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can recreation district directors be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring in the office of the recreation director, other than by the expiration of the term of office, shall be filled by the recreation board. Appointments are made for the remainder of the unexpired term. *(31-4305, Idaho Code)*

**Recreation District Elections  
Selected Code Sections**

- 31-4303 DEFINITIONS
- 31-4304 CREATION OF RECREATION DISTRICTS
- 31-4304A CREATION OF A PLANNED UNIT DEVELOPMENT RECREATION DISTRICT
- 31-4305 DIRECTORS — QUALIFICATIONS — VACANCY — COMPENSATION — TERM
- 31-4306 ELECTION OF DIRECTORS
- 31-4307 PERSONS WHO MAY VOTE IN ELECTION
- 31-4318 LEVY OF TAX
- 31-4319 ANNEXATION OF ADDITIONAL TERRITORY
- 31-4320 DISSOLUTION OF DISTRICT — PROCEDURE
- 31-4323 CREATION OF INDEBTEDNESS FOR WORKS OR IMPROVEMENTS — ELECTION ON PROPOSED INDEBTEDNESS
- 31-4324 NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS
- 31-4325 CONDUCT OF ELECTION FOR PROPOSED INDEBTEDNESS
- 31-4326 INDEBTEDNESS INCURRED UPON FAVORABLE VOTE — RESUBMISSION OF PROPOSITION NOT RECEIVED FAVORABLY
- 31-4326A SECURITY — TAX LEVIES AND SINKING FUND
- 31-4328 RECREATION FACILITIES RESERVE FUND ELECTION
- 31-4333 CONFIRMATION OF ELECTIONS AND SUBDISTRICT BOUNDARIES

**31-4303. DEFINITIONS.** Whenever used in this act the term:

- (a) “county” refers to each county in which all or a portion of a proposed or existing recreation district is situated;
  - (b) “county commissioners” means the board of county commissioners of the county;
  - (c) “clerk” means the clerk of the board of county commissioners of the county;
  - (d) “district” means a proposed or existing recreation district organized under this act;
  - (e) “board” means the board of directors of a recreation district;
  - (f) “director” means a member of a board of directors of a recreation district;
  - (g) “qualified elector” means a person qualified to vote under the general election laws of the state.
- (History: S.L. 1970, Ch. 212)

**31-4304. CREATION OF RECREATION DISTRICTS.** A recreation district may be created as follows:

(a) Any person or persons may file a petition for the formation of a recreation district with the clerk. Such petition which may be in one (1) or more papers shall clearly designate the boundaries of the proposed district, shall state the name of the proposed district, shall state the maximum tax rate that would be imposed upon taxable property within the district or planned unit development recreation districts, and shall be signed by not less than twenty percent (20%) of the qualified electors resident within the boundaries of the proposed district. The boundaries of the proposed district shall include contiguous territory having market value for assessment purposes of not less than five million dollars (\$5,000,000) at the last preceding county assessment and shall not include any area included within an already existing recreation district. The petition shall be accompanied by a map showing the boundaries of the proposed district.

(b) The clerk shall, within ten (10) days after the filing of such petition and map, estimate the cost of advertising and holding the election provided in this section and notify in writing the person or any one of the persons filing such petition as to the amount of such estimate. Such person or persons shall within twenty (20) days after receipt of such written notice deposit such estimated amount with the clerk in cash, or such petition shall be deemed withdrawn. If the deposit is made and the district is formed, the person or persons so depositing such sum shall be reimbursed from the first moneys collected by the district from the taxes authorized to be levied by this chapter.

## **Recreation District Elections Selected Code Sections**

(c) Within thirty (30) days after the filing of such petition together with such map and the making of such cash deposit, the county commissioners shall determine whether or not the same substantially comply with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to the effect specifying the particular deficiencies, dismissing such petition and refunding such cash deposit. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to that effect and calling an election, subject to the provisions of section 34-106, Idaho Code, upon the formation of such proposed district as provided in this section.

(d) If the county commissioners order an election as provided in this section, such election shall be conducted in accordance with the general election laws of the state, including the provisions of chapter 14, title 34, Idaho Code. The county commissioners shall establish election precincts, design and print elector's oaths, ballots and other necessary supplies, appoint election personnel and by rule and regulation provide for the conduct and tally of such election. Each qualified elector who is a resident of the proposed district shall be entitled to vote in such election. The clerk shall give notice of such election which notice shall clearly designate the boundaries of such proposed district, shall state the name of the proposed district as designated in the petition, shall state the date of such election and the hours on such date which the polls will be open for receipt of ballots, shall set forth the qualifications of electors, and shall state that a map showing the boundaries of such district is on file in the office of the clerk. Such notice shall be published for the first time, not less than twelve (12) days prior to the election, and the second publication shall be made not less than five (5) days prior to such election in a newspaper published within the county.

(e) Immediately after such election, the judges at such election shall forward the ballots and results of such election to the clerk. The county commissioners shall canvass the vote within ten (10) days after such election. If one-half (1/2) or more of the votes cast at such election are against the formation of such district, the county commissioners shall enter an order so finding and declaring that such district shall not be formed. If more than one-half (1/2) of the votes cast at such election are in favor of forming such district, the county commissioners shall enter an order so finding, declaring such district duly organized under the name designated in such petition, and dividing such district into three (3) subdivisions, as nearly equal in population as possible, to be known as director's subdistricts one, two and three. The county commissioners shall cause one (1) certified copy of such order to be filed in the office of the county recorder of such county. Immediately upon the entry of such order, the organization of such district shall be complete.

(f) Upon receipt of a certified copy of the order of the county commissioners, the board of county commissioners shall appoint a qualified elector from each director's subdistrict who shall constitute the first board of such district. The appointees from director's subdistricts one and two shall serve until the first district election thereafter held at which their successors shall be elected and the appointee from director's subdistrict three shall serve until the second district election thereafter held at which such appointee's successor shall be elected. The certificate of appointment shall be filed with the clerk with a copy forwarded to each appointee.

(g) When the boundaries of the proposed district lie in two (2) or more counties, the county commissioners of each county shall act separately in the election and organization of that part of the proposed district contained in their county but the county commissioners of each such county shall meet together before calling such election, subject to the provisions of section 34-106, Idaho Code, and provide for uniform proceedings in each county and fix the boundaries of each director's subdistrict in case such election shall carry.

(h) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualification of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the organization of such district after six (6) months have expired from the date of entering the order declaring the formation of such district.

**Recreation District Elections  
Selected Code Sections**

(History: S.L.1970, Ch. 212; S.L. 1980, Ch. 350; S.L. 1995, Ch. 118; S.L. 2001, Ch. 375; S.L. 2017, Ch. 128)

**31-4304A. CREATION OF A PLANNED UNIT DEVELOPMENT RECREATION DISTRICT.** A recreation district may be created by a planned unit development created pursuant to section 67-6515, Idaho Code, applicable to the boundaries of the planned unit development as created by county permit pursuant to the following special terms and provisions:

(a) A “qualified elector” as defined in section 31-4303, Idaho Code, shall include a person owning real property in the proposed district.

(b) Upon receipt of a petition signed by sixty percent (60%) of the qualified electors in a planned unit development to form a recreation district, the board of county commissioners shall issue an order so finding a district has been formed as if an election had been held pursuant to section 31-4304, Idaho Code.

(c) The provisions of subsections (f) and (g) of section 31-4304, Idaho Code, shall apply to initial appointment of a board of directors for a district organized pursuant to this section. Additionally, the provisions of this chapter shall apply to the provisions of a district organized pursuant to this section. (History: S.L. 1995, Ch. 353)

**31-4305. DIRECTORS — QUALIFICATIONS — VACANCY — COMPENSATION — TERM.** Each district shall be governed by a board of three (3) directors who shall manage and conduct the business and affairs of such district and all powers granted to such district by this chapter shall be exercised by such board or its duly authorized officers and agents.

At any time after the creation of the district, the board of directors may, by resolution duly adopted, increase the size of the board from three (3) members to five (5) members. The resolution shall provide for the designation of five (5) director’s subdistricts. A qualified elector shall be appointed by the board to each of the newly created director’s positions, one (1) of whom shall serve until the first district election thereafter held, and one (1) of whom shall serve until the second district election thereafter held.

Every director appointed or elected shall be a qualified elector and a resident of such district. Not more than one (1) director shall reside in the same director’s subdistrict. Each director shall take and subscribe an oath of office before assuming any duties which oath shall be filed in the records of the board. Any vacancy occurring in the office of director, other than by expiration of the term of office, shall be filled by appointment by the board for the unexpired term. The directors shall receive no compensation for their services as a director but shall be entitled to reimbursement for the amount of their actual and necessary expenses incurred in the performance of their official duties. Following the term of the initial appointment, a director shall be elected for a term of four (4) years which shall begin on the first day of January of the year following such election and shall continue until a successor is elected and has qualified. (History: S.L. 1970, Ch. 212; S.L. 1983, Ch. 114; S.L. 1995, Ch. 118)

**31-4306. ELECTION OF DIRECTORS.** (1) An election of directors shall be held in each district on the Tuesday succeeding the first Monday of November of each odd-numbered year. Such election shall be held in conformity with title 34, Idaho Code. Before the notice of election is given, the board shall divide the district into subdivisions as nearly equal in population as possible to be designated as director’s subdistrict 1, 2 and 3, or director’s subdistrict 1, 2, 3, 4 and 5, depending upon the number of subdistricts in the district. Each nominating petition shall state the subdistrict for which the nominee is nominated.

(2) In any election for directors if, after the expiration of the date for filing written nominations for the office of director, it appears that only one (1) qualified candidate has been nominated for each position to be filled and if no declaration of intent has been filed as provided in subsection (3) of this section, it shall not be necessary to hold an election, and the board of directors shall, no later than seven (7) days before the scheduled date of the election, declare such candidate elected as director, and the secretary of the

## **Recreation District Elections Selected Code Sections**

recreation district board shall immediately make and deliver to such person a certificate of election.

(3) No write-in vote for recreation district director shall be counted unless a declaration of intent has been filed indicating that the person desires the office and is legally qualified to assume the duties of recreation district director if elected. The declaration of intent shall be filed with the recreation district board secretary not later than forty-five (45) days before the day of election. (History: S.L. 1970, Ch. 212; S.L. 1971, Ch. 32; S.L. 1982, Ch. 254; S.L. 1983, Ch. 114; S.L. 1994, Ch. 328; S.L. 2002, Ch. 4; S.L. 2009, Ch. 341; S.L. 2014, Ch. 162)

**31-4307. PERSONS WHO MAY VOTE IN ELECTION.** Any person may vote at a district election who is a qualified elector as defined in section 34-104, Idaho Code, for a recreation district created pursuant to section 31-4304, Idaho Code, or as defined in section 31-4304A, Idaho Code, for a recreation district created pursuant to that section. (History: S.L. 1970, Ch. 212; S.L. 1982, Ch. 254; S.L. 1995, Ch. 118; S.L. 1995, Ch. 353)

**31-4318. LEVY OF TAX.** (1) For districts created prior to July 1, 2001, the board is empowered to levy a tax for the uses and purposes of the district in an amount not exceeding six hundredths percent (.06%) of the market value for assessment purposes on all of the taxable property within the district or in an amount not exceeding in any one (1) year one percent (1%) of market value for assessment purposes of all of the taxable property within a district created pursuant to section 31-4304A, Idaho Code.

(2) For districts created on or after July 1, 2001, the board is empowered to levy a tax for the uses and purposes of the district in an amount not exceeding the rate contained in the petition creating the recreation district or planned unit development recreation district, or six hundredths percent (.06%) of the market value for assessment purposes on all of the taxable property within the district, or one percent (1%) of market value for assessment purposes of all of the taxable property within a district created pursuant to section 31-4304A, Idaho Code. If a district desires to impose a tax rate in excess of that contained in its petition, it may submit the question to the electors of the district at an election held subject to the provisions of section 34-106, Idaho Code. The notice for the election shall be in similar scope to that contained in section 31-4324, Idaho Code, and shall be conducted pursuant to section 31-4325, Idaho Code. If a majority of the electors voting at the election vote in favor of increasing the tax rate maximum, the new tax rate shall be in effect for the tax year following the election and for each succeeding tax year.

(3) The board shall by resolution fix the levy to be made for such district for such year and the secretary shall transmit a certified copy of such resolution to the county commissioners at the time and in the manner provided by section 63-804, Idaho Code. Such taxes shall be collected as provided by section 63-812, Idaho Code, and remitted to the treasurer of the district as provided by section 63-1202, Idaho Code. (History: S.L. 1970, Ch. 212, S.L. 1995, Ch. 82; S.L. 1995, Ch. 353; S.L. 1996, Ch. 208; S.L. 1996, Ch. 322; S.L. 1997, Ch. 117; S.L. 2001, Ch. 375)

**31-4319. ANNEXATION OF ADDITIONAL TERRITORY.** After the organization of a district, additional territory adjoining the district and not included within an already existing recreation district, whether located in one (1) or several counties, may be annexed to and included within such district by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, subject to the provisions of section 34-106, Idaho Code, but such additional territory shall not be annexed to and included within such district unless such annexation and inclusion are first approved by resolution of the board of such district prior to the elections on the question of annexation. The same procedure with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as provided in section 31-4304, Idaho Code, except that no change shall be made in director's subdistricts until the next regular director's election and no appointment of any director shall be



## **Recreation District Elections Selected Code Sections**

made by the board of county commissioners. (History: S.L. 1970, Ch. 212; S.L. 1995, Ch. 118; S.L. 2017, Ch. 128)

**31-4320. DISSOLUTION OF DISTRICT — PROCEDURE.** A recreation district may be dissolved as follows:

(a) Any person or persons may file a petition for the dissolution of a recreation district with the clerk. Such petition which may be in one (1) or more papers shall state the name of the district and shall be signed by not less than twenty per cent (20%) of the qualified electors resident within the boundaries of the district.

(b) Within thirty (30) days after the filing of such petition, the county commissioners shall determine whether or not the same substantially complies with the requirements of this section. If the county commissioners find that there has not been substantial compliance with such requirements, they shall enter an order to that effect specifying the particular deficiencies and dismissing the petition. If the county commissioners find that there has been substantial compliance with such requirements, the county commissioners shall forthwith enter an order to that effect and calling an election, subject to the provisions of section 34-106, Idaho Code, upon the dissolution of such district as provided in this section.

(c) If the county commissioners order an election as provided in this section, such election shall be conducted and notice thereof given in accordance with the provisions of section 31-4304, Idaho Code.

(d) Immediately after such election, the judges at such election shall forward the ballots and results of such election to the clerk. The county commissioners shall canvass the vote within ten (10) days after such election. If one-half (1/2) or more of the votes cast at such election are against the dissolution of such district, the county commissioners shall enter an order so finding and declaring that such district shall not be dissolved. If more than one-half (1/2) of the votes cast at such election are in favor of dissolving such district, the county commissioners shall enter an order so finding and declaring such district duly dissolved. The county commissioners shall cause one (1) certified copy of such order to be filed in the office of the county recorder of such county. Immediately upon the entry of such order, the dissolution of such district shall be complete.

(e) Upon such dissolution being complete, title to all property of the dissolved district shall vest in the county where such property is situated. The county commissioners shall then: sell and dispose thereof in the manner provided by law for the sale or disposition of county property; apply the proceeds thereof to pay any lawful claims against the dissolved district, if any; and apply the balance remaining, if any, to any public recreation purposes within the county.

(f) When the boundaries of the district lie in two (2) or more counties, the county commissioners of each county shall act separately in the election and dissolution of that part of the district contained in their county but the county commissioners of each such county shall meet together before calling such election and provide for uniform proceedings in each county. If there is any balance remaining after sale and disposition of the property of such dissolved district, it shall be prorated among such counties in proportion to each county's share of the total assessed valuation of such dissolved district for the preceding calendar year.

(g) After such election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of the dissolution of such district after six (6) months has expired from the date of entering the order declaring the dissolution of such district. (History: S.L. 1970, Ch. 212; S.L. 1995, Ch. 118)

**31-4323. CREATION OF INDEBTEDNESS FOR WORKS OR IMPROVEMENTS — ELECTION ON PROPOSED INDEBTEDNESS.** Whenever the board of a recreation district shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation, completion or maintenance of any purpose stated in section 31-4316, Idaho

## **Recreation District Elections Selected Code Sections**

Code, equipment or apparatus to carry out the objects or purposes of said district requiring the creation of an indebtedness exceeding the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness to the qualified electors, at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose. The declaration of public interest or necessity, herein required, and the provision for the holding of such election, may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of holding the same, which shall be in accordance with the provisions of title 34, Idaho Code, and the method of voting for or against the incurring of the proposed indebtedness. The county commissioners, pursuant to section 34-302, Idaho Code, shall designate the polling place or places and the county clerk shall appoint for each polling place, from the qualified electors, the judges of such election, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of market value for assessment purposes of the real estate and personal property within the said district or in excess of ten percent (10%) of market value for assessment purposes of real estate and personal property within a district created pursuant to section 31-4304A, Idaho Code, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election. (History: S.L. 1971, Ch. 71; S.L. 1980, Ch. 350; S.L. 1995, Ch. 118; S.L. 1995, Ch. 353; S.L. 2009, Ch. 341)

**31-4324. NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS.** When such election is ordered to be held, subject to the provisions of section 34-106, Idaho Code, the board shall cause notices of the election to be published for the first time not less than twelve (12) days prior to the election and a second publication shall be made not less than five (5) days prior to the election, in accordance with the provisions of section 34-1406, Idaho Code. Said notices shall recite the action of the board in deciding to bond the district, the purpose thereof and the amount of the bonds supposed to be issued, the estimated costs of the works or improvements as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness, and shall also specify the date of the election and the time during which the polls shall be open. Notices shall also name the place holding the election. (History: S.L. 1971, Ch. 71; S.L. 1995, Ch. 118)

**31-4325. CONDUCT OF ELECTION FOR PROPOSED INDEBTEDNESS.** The county clerk shall conduct the election in a manner prescribed by law for the holding of general elections and shall take their returns to the secretary of the district at any regular or special meeting of the board held within five (5) days following the date of such election. The returns thereof shall be canvassed and the results thereof shall be declared. (History: S.L. 1971, Ch. 71; S.L. 2009, Ch. 341)

**31-4326. INDEBTEDNESS INCURRED UPON FAVORABLE VOTE — RESUBMISSION OF PROPOSITION NOT RECEIVED FAVORABLY.** In the event that it shall appear from said returns that a majority, in the amount which is now, or may hereafter be, set by the constitution of the state of Idaho for approval of indebtedness, of the qualified electors of the district voting at such election shall have voted in favor of such proposition or any proposition submitted hereunder at such election, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract or issue and sell bonds of the district, as the case may be, all for the purpose or purposes, and object or objects provided for in the propositions submitted hereunder and in the resolution therefor and in the amount so provided at a rate of interest not exceeding the rate of interest recited in such resolution. The submission

## **Recreation District Elections Selected Code Sections**

of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same, or other propositions, at subsequent election or elections called for such purpose at any time. (History: S.L. 1971, Ch. 71)

**31-4326A. SECURITY — TAX LEVIES AND SINKING FUND.** After the issuance of any bonds authorized by section 31-4326, Idaho Code, the full faith and credit of the issuing district, and all taxable property within its limits, as constituted at the time of the issuance of such bonds, are, shall be, and must continue, pledged to the full and prompt payment of the principal and interest thereof. Should any tax for the payment of principal and interest on any bonds issued under the provisions of this act at any time not be levied or collected in time to meet such payments, such payments shall be made out of other funds of such district. The governing board of such district shall levy and cause to be levied annually at the time when and in the manner in which other general taxes of such district are levied, upon all the taxable property within its limits, in addition to all other authorized taxes and assessments, a tax or assessment sufficient to meet the payments of principal of and interest on said bonds as the same mature, and to constitute a sinking fund for the payment of the principal amount of said bonds and the interest thereon within no more than twenty (20) years from the time of contracting the indebtedness evidenced thereby all in accordance with the provisions made for the payment of the principal of and interest on such bonds as theretofore provided by ordinance or by resolution and as required by the constitution and laws of the state of Idaho; and such taxes shall be levied, assessed, certified, extended, and collected by the proper officers and at the times, all as fixed by law and as other taxes are levied, assessed, certified, extended and collected in, for and by the district and by the same officers thereof until the principal and interest of all such bonds and interest thereon shall be fully paid. All of such taxes when collected shall be credited by the proper receiving officers to separate funds distinct from the funds for the payment of the principal of or the interest on bonds of any other series or issue, and apart from any other funds of the district. The requirements of this section shall apply to all bonds hereafter issued by recreation districts pursuant to said section 31-4326, Idaho Code, including any such bonds heretofore voted but not yet issued. (History: S.L. 1973, Ch. 77)

**31-4328. RECREATION FACILITIES RESERVE FUND ELECTION.** In any recreation district in which a recreation facilities reserve fund has been created, the board may submit to the qualified electors of the district, the question of applying the levy of six hundredths percent (.06%) of the market value for assessment purposes on all taxable property [within the] in a district or ten (10) mills in a district created pursuant to section 31-4304A, Idaho Code, authorized in section 31-4318, Idaho Code, or a portion thereof, to the credit of the recreation facilities reserve fund.

The notice of such election shall state the number of mills proposed to be levied, the period of years in each of which the levy is proposed to be made, and the purposes for which such funds shall be used. Said notice shall be given, the election shall be conducted and the returns canvassed as provided in sections 31-4323 through 31-4326, Idaho Code, and the levy shall be approved only if a majority, in the amount which is now, or may hereafter be, set by the constitution of the state of Idaho for approval of indebtedness, if the qualified voters vote in favor.

If the question be approved, the board may make a levy in each year according to the terms so approved, and may again submit the question at the expiration of the period of such levy, for the number of mills and the number of years which the board may at that time determine, or, during the period approved at any such election, if such period be less than ten (10) years or the number of mills be less than three (3), the board may submit to the qualified electors in the same manner as before, the question whether the number of years, or the number of mills, or both, be increased, but not to exceed the maximum herein authorized. If such increase or increases be approved by the electors, the terms of such levy shall be in lieu of those approved in the first instance, but disapproval shall not affect any terms theretofore in effect.

**Recreation District Elections  
Selected Code Sections**

(History: S.L. 1971, Ch. 71; S.L. 1995, Ch. 82; S.L. 1995, Ch. 353)

**31-4333. CONFIRMATION OF ELECTIONS AND SUBDISTRICT BOUNDARIES.** That all recreation districts heretofore organized or purported to be organized pursuant to the provisions of chapter 43, title 31, Idaho Code, known as the "recreation district law," the legal descriptions of the boundaries thereof and of the boundaries of the subdistricts therein, and all elections held or purported to have been held in such recreation districts prior to the effective date, of this act, and all notices given and proceedings and actions taken in connection therewith are hereby confirmed, ratified and validated; and no contest shall be maintained concerning the organization of such districts, the boundaries thereof and of the subdistricts therein, such elections or such notices, proceedings and actions. (History: S.L. 1973, Ch. 77)

## **Revenue & Taxation Elections Frequently Asked Questions**

### **When are elections held for the creation of new taxing districts?**

Elections for new taxing districts or for bond or levy elections are held on the third Tuesday in May or the Tuesday following the first Monday in November. *(34-106, 63-802C, Idaho Code)*

### **Who is responsible for administration of the election?**

All elections for special taxing districts are conducted by the county clerk in accordance with the provisions of Title 34, Chapter 14, Idaho Code. *(34-1401, 63-802C, Idaho Code)*

### **How soon can an election for a special taxing district or bond proposal be held if such election was defeated in a previous election?**

No election can be held for two (2) months from and after the date of the prior election for the same or similar purpose. *(63-1309, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

*This page intentionally left blank.*

**Revenue & Taxation Elections**  
**Selected Code Sections**

- 63-802C ELECTION TO CREATE A NEW TAXING DISTRICT
- 63-1309 SPECIAL TAXING DISTRICT OR BOND PROPOSAL DEFEATED IN ELECTION BARS  
SUBSEQUENT ELECTIONS FOR SPECIFIED TIME — EXCEPTION — BOARD OF  
EDUCATION MAY CONDUCT ELECTION MUNICIPALITIES, WATER OR SEWER  
DISTRICTS MAY CONDUCT BOND ELECTION
- 63-4103 PETITIONS FOR DISSOLUTION OF SPECIAL DISTRICTS

**63-802C. ELECTION TO CREATE A NEW TAXING DISTRICT.** (1) In the case of an election to create a new taxing district, the county clerk, of the county or counties where the proposed taxing district is proposed to be located, shall mail a notice of the election to all residences within the proposed taxing district or to residents in the proposed taxing district who are eligible to vote in this election. The notice shall be mailed not less than fourteen (14) calendar days prior to the day of the election and shall state with specificity: the purpose of the election, the date of the election, which shall be on a date authorized in section 34-106, Idaho Code, the polling places, the time the polls will be open, the aggregate amount of taxes that will be raised in the proposed taxing district if the election is successful and the increase that will occur per one hundred thousand dollars (\$100,000) of taxable value of property, above any exemptions, of residential property, commercial property, industrial property, land actively devoted to agriculture and operating property.

(2) The county clerk shall, within ten (10) days after the filing of the petition to create the new taxing district, estimate the cost of advertising and holding the election provided in this section and notify in writing the person or any of the persons filing the petition as to the amount of the estimate. The person or persons shall within twenty (20) days after receipt of the written notice deposit the estimated amount with the county clerk in cash, or the petition shall be deemed withdrawn. If the deposit is made and the proposed new taxing district is formed, the person or persons so depositing the sum shall be reimbursed from the first moneys collected by the county from the taxes authorized to be levied by this section.

(3) Compliance with this section shall satisfy any notice or publication requirement as may be provided by law. (History: S.L. 2007, Ch. 364; S.L. 2009, Ch. 341)

**63-1309. SPECIAL TAXING DISTRICT OR BOND PROPOSAL DEFEATED IN ELECTION BARS SUBSEQUENT ELECTIONS FOR SPECIFIED TIME — EXCEPTION — BOARD OF EDUCATION MAY CONDUCT ELECTION — MUNICIPALITIES, WATER OR SEWER DISTRICTS MAY CONDUCT BOND ELECTION.** If any election has been held for the formation of any special taxing district, or for the approval of any bond issue or other proposal which would have resulted in a property tax levy, and the proposal submitted at such election was defeated, no subsequent election shall be held within two (2) months from and after the date of such prior election for the same or a similar purpose in any district which includes any part of the area which was affected by the prior election. In the event any school building is destroyed or rendered unusable for school purposes by reason of fire, flood or other catastrophe, and a school bond election for the purpose of the replacement of such building is prohibited by the provisions of this section or by the provisions of section 34-106, Idaho Code, the state board of education shall have the power to authorize an election for such purpose by order based upon a finding of such facts. The provisions of this section shall not apply to school elections held solely for determining property tax levies for general school purposes not involving the issuance of bonds. This time requirement between elections shall not apply to municipalities or water and/or sewer districts when bond issues are being proposed for the installation or improvement of water supply systems or public sewerage systems which have been deemed necessary by the Idaho state board of health and welfare to bring such system or systems in conformance with state statutes or rules of the state board of health and welfare. (History: S.L. 1996, Ch. 98; S.L. 2009, Ch. 341)

**Revenue & Taxation Elections**  
**Frequently Asked Questions**

**63-4103. PETITIONS FOR DISSOLUTION OF SPECIAL DISTRICTS.** Proceedings for the dissolution of a special district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to twenty-five percent (25%) of the largest number of persons who voted for any director in the last election of directors or if no election has been held within two (2) years then a petition may be initiated by twenty-five (25) or more qualified electors or property owners of the district.

The petition, when completed and verified, shall be filed with the clerk of the county or counties if more than one (1) county is involved. The county clerk shall publish notice and the county commissioners shall hold a hearing on the matter. If necessary, they shall hold an election, subject to the provisions of section 34-106, Idaho Code, on the matter. The hearing and election shall be held in accordance with the terms and provisions of chapter 14, title 34, Idaho Code. (History: S.L. 1987, Ch. 87; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)



## **Soil Conservation District Elections Frequently Asked Questions**

### **When are soil conservation district elections held?**

Elections for supervisors of solid conservation districts are held on the first Tuesday following the first Monday in November in even-numbered years. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (22-2721, 34-106, *Idaho Code*)

### **How many supervisors are elected in a soil conservation district and what are their terms of office?**

Each soil conservation district board consists of five (5) supervisors. All supervisors must be landowners or farmers of the district where they are elected or appointed and shall be registered to vote in the State of Idaho.

At any time after formation, the supervisors of a district can request permission from the state soil conservation commission to increase the number of supervisors to seven (7).

Each supervisor is elected on a district wide basis and serves a term of four (4) years. The terms of office are staggered. (22-2721, *Idaho Code*)

### **How do I know if I'm eligible to vote in the election?**

You must be a qualified elector (i.e. registered voter) of the state of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The County Clerk's Election Office or the secretary of the district can tell you if you are eligible to vote in district elections. (22-2717, 34-104, 34-410, 34-1402, *Idaho Code*)

### **What are the requirements if I want to run for soil conservation district supervisor?**

All supervisor candidates must be landowners or farmers of the district where they are elected or appointed and be registered to vote in the State of Idaho.

Candidates file nominating petitions which include the name of the candidate, the position that the candidate is running in and signatures of at least five (5) qualified electors owning land or residing within the boundaries of the district.

The Declaration of Candidacy and Petition of Candidacy forms are available from and are filed with the secretary of the soil conservation district. However, forms are also available from the County Clerk's Election Office.

The nomination must be filed on or before September 1 in the year of the election. The secretary of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. (22-2717, 22-2721, 34-1404, *Idaho Code*; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

All elections in the district are conducted by the county clerk in accordance with the provisions of Title 34, Chapter 14, *Idaho Code*. (22-2721, 34-1401, *Idaho Code*)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the soil conservation district not less than forty-five (45) days before the election. Declaration of Intent forms are available from the secretary of the district or the County Clerk's Election Office. (22-2721, 34-1407, *Idaho Code*)

## **Soil Conservation District Elections Frequently Asked Questions**

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary for the candidates to stand for election. The board of supervisors declare the candidate to be elected and the soil and water conservation district shall immediately make and deliver the certificate of election. (22-2721, 34-1407, *Idaho Code*)

### **Is absentee voting allowed?**

Yes. Any registered elector of the soil conservation district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. (34-1002, 34-1408, *Idaho Code*)

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. (34-1409, *Idaho Code*)

### **Can soil conservation district supervisors be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, *Idaho Code*. (34-1701, *Idaho Code*)

### **How are vacancies filled?**

Any vacancy occurring in the office of the soil conservation district supervisor, other than by the expiration of the term of office, are filled by a vote of the majority of the supervisors. The supervisors shall certify the name of the appointed supervisor to the state soil and water conservation commission. The soil conservation district shall issue a certificate of such appointment. Appointments are made for either the unexpired term or for a full term depending upon how the supervisors vote when filing the vacancy. (22-2721, *Idaho Code*)

## **Soil Conservation District Elections Selected Code Sections**

22-2717	DEFINITIONS
22-2719	CREATION OF SOIL CONSERVATION DISTRICTS
22-2720	CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR EXISTING DISTRICTS
22-2721	ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS
22-2725	DISCONTINUANCE OF DISTRICTS

**22-2717. DEFINITIONS.** Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Administrator" means the administrator for the Idaho state soil and water conservation commission.

(2) "Agency" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(3) "Agricultural pollution abatement plan" or "ag plan" means the document developed by the state soil and water conservation commission and approved by the commission and the department of environmental quality, that provides appropriate technical, programmatic, informational and educational processes, guidelines and policies for addressing agricultural pollution.

(4) "Best management practices" or "BMPs" means practices, techniques, or measures developed or identified by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(5) "Commission" or "state soil and water conservation commission" means the agency created in section 22-2718, Idaho Code.

(6) "Conservation plan" means a description of identified natural resource issues and a specific schedule of implementation of component practices necessary to resolve those specific resource issues as agreed upon by the landowner.

(7) "Designated agency" is as defined in section 39-3602, Idaho Code.

(8) "District," "conservation district," "soil conservation district," or "soil and water conservation district" means a governmental subdivision(s) of this state, and a public body corporate and politic, organized in accordance with the provisions of this chapter, for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(9) "Due notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjournment dates.

(10) "Eligible applicant" means an individual agricultural owner, operator, partnership, corporation, conservation district, irrigation district, canal company or other agricultural or grazing interest.

(11) "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivisions, agency, or instrumentality, corporate or otherwise, of either of them.

(12) "Idaho OnePlan" means a computer-based system for improving efficiency and effectiveness of natural resource planning by landowners and land users.

(13) "Landowner" or "owner" includes any person, firm, or corporation who shall hold title to any lands lying within a district organized under the provisions of this chapter. A buyer on contract, who is the occupier of land, shall be construed as landowner.

(14) "Land user" means any entity with a lease, permit or similar business agreement with a landowner

## **Soil Conservation District Elections Selected Code Sections**

to implement, manage or utilize such land for activities related to use of the land.

(15) "Natural resources conservation service" or "NRCS" means the agency governed by the provisions of 16 U.S.C. sections 590a through 590d and 590f.

(16) "Nominating petition" means a petition filed under the provisions of section 22-2721, Idaho Code, to nominate candidates for the office of supervisor of a soil conservation district.

(17) "Participant" means an individual agricultural owner, operator, partnership, private corporation, conservation district, irrigation district, canal company, or other agricultural or grazing interest approved by the commission or an individual agricultural owner, operator, partnership, or private corporation approved for implementation of conservation improvements, projects, or the water quality program for agriculture.

(18) "Petition" means a petition filed under the provisions of subsection (1) of section 22-2719, Idaho Code, for the creation of a district.

(19) "Project sponsor" means a conservation district, irrigation district, canal company, or other agricultural or grazing interest, as determined appropriate by the commission, that enters into a conservation improvement or water quality project agreement with the commission.

(20) "Qualified elector" means any person who is qualified to vote pursuant to the requirements of section 34-104, Idaho Code.

(21) "Riparian land" means the beds of streams, the adjacent vegetation communities and the land thereunder, which are predominately influenced by their association with water and are privately owned.

(22) "Specifications" means the materials, operations and procedures necessary to obtain the desired standards of construction and installation.

(23) "Standards" means the minimum limits of technical excellence of a component practice for its planning, design and construction.

(24) "State" means the state of Idaho.

(25) "Supervisor" means one (1) of the members of the governing body of a district elected or appointed in accordance with the provisions of this chapter.

(26) "Total maximum daily load" is as defined in section 39-3602, Idaho Code.

(27) "United States" or "agencies of the United States" includes the United States of America, the natural resources conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America. (History: S.L. 1957, Ch. 218; S.L. 1982, Ch. 254; S.L. 1995, Ch. 118; S.L. 1997, Ch. 180; S.L. 2000, Ch. 160; S.L. 2003, Ch. 107; S.L. 2010, Ch. 279)

**22-2719. CREATION OF SOIL CONSERVATION DISTRICTS.** (1) Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the state soil and water conservation commission asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

(a) The proposed name of said district;

(b) That there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory described in the petition;

(c) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;

(d) A request that the state soil and water conservation commission duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the commission determine that such a district be created.

Where more than one (1) petition is filed covering parts of the same territory, the state soil and water conservation commission may consolidate all of any such petitions.

## **Soil Conservation District Elections**

### **Selected Code Sections**

(2) Within thirty (30) days after such petition has been filed with the state soil and water conservation commission, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this chapter, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given the hearing shall be adjourned and the due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the commission shall determine upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the commission shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to the existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this chapter, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislature determinations set forth in section 22-2716, Idaho Code. The territory to be included within such boundaries need not be contiguous. If the commission determines after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

(3) After the commission has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this chapter is administratively practicable and feasible. To assist the commission in the determination of such administrative practicability and feasibility, it shall be the duty of the commission, at the next election held after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum, subject to the provisions of section 34-106, Idaho Code, within the proposed district upon the proposition of the creation of the district, and to cause notice of such election to be given as provided in section 34-1406, Idaho Code. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of .... and ...." and "Against creation of a soil conservation district of the lands below described and lying in the county(ies) of .... and ...." shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the commission. All qualified electors who own lands or reside within the proposed district shall be eligible to vote in said referendum.

(4) The commission shall pay all expenses for the issuance of such notice and the conduct of such hearings and election and shall supervise the conduct of such hearings and election. It shall issue

## **Soil Conservation District Elections Selected Code Sections**

appropriate regulations governing the conduct of such hearings and election. No informalities in the conduct of the election or in any matter relating thereto shall invalidate the election or the result thereof if notice thereof shall have been given substantially as herein provided and the election shall have been fairly conducted.

(5) The commission shall publish the result of the election and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the commission determines that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the commission determines that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of landowners and qualified electors eligible to vote in the election who shall have voted, the proportion of the votes cast in the election in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners of the proposed district, the probable expense of carrying on erosion control and other conservation operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determination set forth in section 22-2716, Idaho Code; provided however, the commission shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the election upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

(6) If the commission determines that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this state and a public body corporate and politic, upon the taking of the following proceedings:

(a) The two (2) appointed supervisors shall present to the secretary of state an application signed by them which shall set forth (and such application need contain no detail other than the mere recitals): (i) that a petition for the creation of the district was filed with the state soil and water conservation commission pursuant to the provisions of this chapter and that the proceedings specified in this chapter were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this chapter; and that the commission has appointed them as supervisors; (ii) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (iii) the term of office of each of the supervisors; (iv) the name which is proposed for the district; and (v) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence.

(b) The application shall be accompanied by a statement by the state soil and water conservation commission, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued and hearing held as aforesaid; that the commission did duly determine that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and an election held on the question of the creation of such district, and that the result of the election showed a sixty percent (60%) majority of the votes cast in the election to be in favor of the creation of the district; that thereafter the commission did duly determine that the operation of the

## **Soil Conservation District Elections Selected Code Sections**

proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the commission.

(c) The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office.

(d) If the secretary of state finds that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil and water conservation commission which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name free of such defects, the secretary of state shall record the application and statement with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed and recorded, as herein provided, the district shall constitute a governmental subdivision of this state and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the state soil and water conservation commission as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this chapter except as provided in section 22-2720, Idaho Code.

(7) After six (6) months shall have expired from the date of entry of a determination by the state soil and water conservation commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this chapter.

(8) Petitions for including additional territory within an existing district may be filed with the state soil and water conservation commission and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The commission shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this chapter for petitions to organize a district. Where the total number of landowners in the area proposed for inclusion is less than twenty-five (25), the petition may be filed when signed by a two-thirds (2/3) majority of the owners of such area, and in such case no election need be held. In elections upon petitions for such inclusion, all owners of land and qualified electors lying within the proposed additional area shall be eligible to vote.

(9) Incorporated cities, not already included within a district, may be included by presentation of a request of the district approved by the governing body along with a request of the city approved by the mayor and council, to the state soil and water conservation commission. The commission shall consider and act on such joint request at the earliest convenience. If the joint request is denied, the commission shall so notify the district and city in writing and state the reasons for such denial. After six (6) months shall have expired from the date of denial of such joint request, a subsequent joint request may again be made. If the joint request is approved, the commission shall then cause the necessary papers to be filed with the secretary of state. This shall include an amended legal description of the boundaries of the total district. (History: S.L. 1957, Ch. 218; S.L. 1973, Ch. 164; S.L. 1995, Ch. 118; S.L. 2010, Ch. 279)

**22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR EXISTING DISTRICTS.** (1) Petitions for consolidating two (2) or more existing districts or for deleting territory from one (1) or more existing districts and adding the deleted territory to one (1) or more existing districts or incorporating the deleted territory into a new district or districts may be filed with the state soil and water conservation commission on such forms as may be prescribed by the state soil and water conservation

## **Soil Conservation District Elections Selected Code Sections**

commission.

(2) The petitions provided for in subsection (1) of this section shall be signed by twenty-five (25) landowners in the area proposed to be consolidated or the area proposed to be deleted plus the district or districts to which it is to be added or the territory which is to be included in a new district or districts, as the case may be. Provided however, if two-thirds (2/3) of the landowners of all such territory total less than twenty-five (25), then such lesser number of signatures will suffice for the petition.

(3) Within thirty (30) days after receipt of such a petition, the state soil and water conservation commission shall cause due notice of hearing on the matter to be given in all of the areas concerned.

(4) At the close of the hearing, the state soil and water conservation commission shall make and record the following determinations:

(a) Whether or not, in the opinion of the commission, the proposal set forth by the petition would serve the public health, safety and welfare.

(b) Whether or not, in the opinion of the commission, the proposal set forth by the petition is administratively practicable and feasible.

(5) If either or both of the determinations made under subsection (4) of this section are in the negative, the matter is closed. Provided however, after six (6) months have expired from the date of such determination, a new petition may be filed involving substantially the same proposals.

(6) If both of the determinations made under subsection (4) of this section are in the affirmative and if the proposal involves the consolidation of two (2) or more existing districts or if the proposal involves the deletion of territory from one (1) or more districts and the addition of that territory to another existing district or districts, then the commission shall proceed to effect the change as per the commission's determinations hereinbefore referred to. The state soil and water conservation commission shall effect the change by filing with the secretary of state a sworn statement of a member of the commission stating:

(a) The name of the district or districts which are consolidated, if any;

(b) The name of the district or districts from which the territory is deleted or added, if any; and

(c) A description of the boundaries of the consolidated district or of the territory remaining in the district or districts deleted from and the district or districts added to, according to the commission's determination.

From and after the time of filing of such statement with the secretary of state, the changes will be effective. If the name of a district formed by the consolidation of two (2) or more existing districts differs from that of either of the consolidated districts, the secretary of state shall issue and record a new certificate of organization of said district.

(7) Within ten (10) days after the filing of a statement providing for the formation of a consolidated district as prescribed in subsection (6) of this section, the supervisors of each district involved in the consolidation shall meet and, from their number, shall designate a chairman of the consolidated district. Incumbent supervisors of districts involved in a consolidation may serve until any such supervisor's term expires. Any vacancy on the governing body of a district formed by consolidation shall not be filled until only five (5) supervisors, or seven (7) upon written request pursuant to section 22-2721, Idaho Code, remain on the governing body of such district. Thereafter, vacancies shall be filled consistent with procedures prescribed in section 22-2721, Idaho Code.

(8) A district formed by the consolidation of two (2) or more districts shall receive a sum not to exceed eight thousand five hundred dollars (\$8,500) for each district involved in the formation of the consolidated district for a period of three (3) years after the formation of such district. The maximum allocation of fifty thousand dollars (\$50,000) per district set forth in section 22-2727, Idaho Code, shall not apply to a district formed by consolidation for a period of three (3) years following the formation of such district. Upon expiration of the three (3) year time period, a district formed by consolidation shall be treated as one (1) district and shall be subject to all provisions of section 22-2727, Idaho Code.

(9) The office of any district supervisor is hereby declared to be vacant when, after the deletion of territory, such district supervisor is no longer a landowner within the district deleted from.



## **Soil Conservation District Elections Selected Code Sections**

(10) If both of the determinations made under subsection (4) of this section are in the affirmative and if the proposal involves the addition of territory deleted from one (1) or more existing districts to other territory thus forming a new district, a referendum shall be held and other procedures followed as in cases involving the original formation of a district where no existing district is involved. In such a case, due notice shall be given in the area which may comprise the new district.

(11) If a new district is formed under the procedure prescribed in subsection (10) of this section, part of the area which is composed of an old district, the state soil and water conservation commission shall cause to be filed with the secretary of state a sworn statement of a member of the commission stating:

(a) The name of the district or districts deleted from; and

(b) A description of the boundaries of the territory remaining in the district or districts deleted from.

From and after the time of filing of such statement with the secretary of state, the change in the boundaries of the existing districts shall be effective. (History: S.L. 1957, Ch. 218; S.L. 2010, Ch. 279)

**22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS.** (1) The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided in this chapter. Elections shall be conducted pursuant to the provisions of this section and the uniform district election law, chapter 14, title 34, Idaho Code. If at any time the supervisors of a district deem it necessary, they may request permission from the state soil and water conservation commission to increase the number of supervisors to seven (7). Upon receipt of such a request in writing, signed by all five (5) supervisors, stating a valid reason for such need, the commission shall grant permission. The additional supervisors shall then be appointed as outlined in this section until such time as regular district elections for two (2) supervisors in each district. At that time those districts having seven (7) supervisors shall then elect four (4) supervisors for four (4) year terms. The two (2) supervisors appointed by the district shall be persons who are by training and experience qualified to perform the specialized services which will be required of them in the performance of their duties. All supervisors shall be landowners or farmers of the district where they are elected or appointed and shall be registered to vote in the state of Idaho.

(2) Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil and water conservation commission to nominate candidates for supervisors of each district. The county clerk shall conduct the election for the district in compliance with chapter 14, title 34, Idaho Code, and shall be the election official for the district. The election official shall have authority to extend the time within which nominating petitions may be filed. Nominating petitions shall be filed with the secretary of the district, and no such nominating petition shall be accepted by the election official unless it shall be subscribed by not less than five (5) persons who are qualified electors owning land or residing within the boundaries of the district. The election official shall give due notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated shall appear upon ballots, with directions to choose three (3) names to indicate the voter's preference. The three (3) candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district.

(3) All elections in districts shall be conducted by the county clerk. Such election shall be held on the first Tuesday succeeding the first Monday of November in each even-numbered year. Such elections shall be in compliance with the provisions of chapter 14, title 34, Idaho Code, and shall be supervised and conducted by the county clerk. The cost of conducting such elections shall be borne by the county that conducted the election. The county clerk shall certify to the soil and water conservation district the names of the elected supervisors. The soil and water conservation district shall issue certificates of election to each elected supervisor so certified. The county clerk or county clerks of the county or counties in which the district is located shall conduct the election for the soil conservation district, and the county clerk must

## **Soil Conservation District Elections Selected Code Sections**

provide a ballot for the district election and must provide a process that allows only qualified electors of the district to vote in that district's election.

(4) In any election for supervisor, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of supervisors to be elected, it shall not be necessary for the candidates to stand for election, and the board of supervisors shall declare such candidates elected as supervisors, and the soil and water conservation district shall immediately make and deliver to such persons certificates of election.

(5) The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be four (4) years commencing on the first day of January next following election, except that the two (2) supervisors who are first appointed shall be designated to serve for terms of two (2) years. A supervisor shall hold office until a qualified successor has been elected or appointed. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term shall be made by a vote of the majority of the supervisors duly qualified and acting at the time the vacancy shall arise and the supervisors shall certify the name of the appointed supervisor to the state soil and water conservation commission. The soil conservation district shall issue a certificate of such appointment.

(6) A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, including travel expense, necessarily incurred in the discharge of duties. A supervisor shall receive no compensation for services from regular district funds, county funds authorized in section 22-2726, Idaho Code, or state funds authorized in section 22-2727, Idaho Code.

(7) In the event the district has a special project, approved by the state soil and water conservation commission, making project funds available from federal or other sources, a supervisor may receive compensation not to exceed thirty-five dollars (\$35.00) per day plus actual and necessary expenses from project funds for services directly related to the project.

(8) The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the attorney general of the state for such legal services as they may require or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one (1) or more supervisors, or to one (1) or more agents, or employees, such powers and duties as they may deem proper. The supervisors shall furnish to the state soil and water conservation commission, upon request, copies of such ordinances, rules, orders, contracts, forms and other documents as they shall adopt or employ, and such other information concerning the supervisors' activities as the commission may require in the performance of the commission's duties under this chapter.

(9) The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; they shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, and orders issued or adopted; and shall provide for independent financial audits in accordance with the provisions of section 67-450B, Idaho Code. Supervisors shall be subject to recall in accordance with the provisions of chapter 17, title 34, Idaho Code.

(10) The supervisors may invite the legislative body of a municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county. (History: S.L. 1957, Ch. 218; S.L. 1963, Ch. 30; S.L. 1973, Ch. 59; S.L. 1978, Ch. 280; S.L. 1986, Ch. 179; S.L. 1990, Ch. 3; S.L. 1995, Ch. 118; S.L. 1995, Ch. 256; S.L. 1997, Ch. 180; S.L. 1999, Ch. 78; S.L. 2000, Ch. 4; S.L. 2008, Ch. 383; S.L. 2009, Ch. 341; S.L. 2010, Ch. 279; S.L. 2011, Ch. 11; S.L. 2012, Ch. 211)

## **Soil Conservation District Elections Selected Code Sections**

**22-2725. DISCONTINUANCE OF DISTRICTS.** (1) At any time after five (5) years after the organization of a district under the provisions of this chapter, any twenty-five (25) owners of land lying within the boundaries of such district may file a petition with the state soil and water conservation commission requesting that the operations of the district be terminated and the existence of the district discontinued. The commission may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such petition has been received by the commission, it shall give due notice to the county clerk of the holding of an election, subject to the provisions of section 34-106, Idaho Code, and the county clerk shall supervise the election, and issue appropriate regulations governing such election as are consistent with chapter 14, title 34, Idaho Code, the question to be submitted by ballots upon which the words "For terminating the existence of the .... (name of the soil conservation district to be here inserted)" shall appear, with a square before each proposition and a direction to mark the ballot as the voter may favor or oppose discontinuance of such district. All qualified electors who reside within the proposed district shall be eligible to vote in said election. No informalities in the conduct of the election or in any matters relating thereto shall invalidate the election or the result thereof if notice thereof shall have been given substantially as herein provided and the election shall have been fairly conducted.

(2) The commission shall publish the result of the election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the commission determines that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the commission determines that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the commission shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of residents eligible to vote in the election who shall have voted, the proportion of the votes cast in the election in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners of the district, the probable expense of carrying on such erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 22-2716, Idaho Code, provided however, that the commission shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the election shall have been cast in favor of the continuance of such district.

(3) Upon receipt from the state soil and water conservation commission of a certificate that the commission has determined that the continued operation of the district is not administratively practicable and feasible pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the state treasury. The supervisors shall thereupon file an application duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the state soil and water conservation commission setting forth the determination of the commission that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

(4) Upon issuance of a certificate of dissolution under the provisions of this section, all contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The state soil and water conservation commission shall be substituted for the district or supervisors as party to such contracts.

***Soil Conservation District Elections***  
***Selected Code Sections***

(5) The state soil and water conservation commission shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this chapter, more often than once in five (5) years. (History: S.L. 1957, Ch. 218; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341; S.L. 2010, Ch. 279)

## **Water & Sewer District Elections Frequently Asked Questions**

### **When are water & sewer district elections held?**

Elections for directors for water and sewer districts are held biennially on the third Tuesday in May of odd-numbered years. Recreational water and sewer districts created under 42-3202B also hold biennial elections on the third Tuesday in May; however, they are exempt from the other provisions of Title 34, Chapter 14, Idaho Code. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. *(34-106, 42-3211, Idaho Code)*

### **How many directors are elected in a water & sewer district and what are their terms of office?**

Each water & sewer district is governed by a board of five (5) directors. At the first biennial election and every 6th year thereafter, one member is elected for a term of six years; at the second biennial election and each 6th year thereafter, two members are elected for a term of six years; at the third biennial election and each 6th year thereafter, two members are elected for a term of six years. Each director is elected on a district wide basis.

The board of directors of any water or sewer district organized under the provisions of chapter 32, title 42, Idaho Code, may at any time, on their own motion, call an election to submit to the qualified electors of a proposed water or sewer subdistrict the question of the creation of a water or sewer subdistrict. The election shall be called, held, and conducted pursuant to the provisions of chapter 32, title 42, Idaho Code. Whenever the creation of more than one (1) water or sewer subdistrict is submitted at the same election, separate ballots and separate propositions shall be used in voting on the question of creating each water or sewer subdistrict. *(42-3211, 42-3218A, Idaho Code)*

### **How do I know if I'm eligible to vote in water & sewer district elections?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a 30-day resident of the district prior to the election. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The County Clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. *(34-104, 34-1402, 42-3202, Idaho Code)*

### **What are the requirements if I want to run for water & sewer district director?**

Director candidates must be qualified electors of the district.

Candidates for election as a water & sewer district director file nominating petitions which include the name of the candidate, the office that the candidate is running for, the term of office and signatures of at least five (5) electors from the district.

The Declaration of Candidacy and Petition of Candidacy forms are available from and are filed with the secretary of the board. However, forms can also be obtained from the County Clerk's Election Office.

The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election. The secretary of the district has seven (7) days following the filing to verify the qualifications of the nominee and certify that person is to be placed on the ballot. *(34-1404, 42-3207, Idaho Code; see Election Consolidation Calendar for dates)*

### **Who is responsible for administration of the election?**

The county clerk administers district elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code. The county clerk shall conduct the election and shall appoint judges to conduct it. The county clerk performs all necessary duties of the election of the district including, but not limited to, publication of the notice of the filing deadline and the notice of the election, and preparation of the election calendar. Recreational water and sewer districts as defined in section 42-3202A are exempt from election consolidation. *(34-1401, 42-3211, Idaho Code)*

## **Water & Sewer District Elections Frequently Asked Questions**

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the secretary of the water & sewer district not less than forty-five (45) days before the election. Declaration of Intent forms are available from the secretary of the district or the county clerk's elections office. *(34-1407, Idaho Code)*

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates is equal to the number of directors to be elected, no election will be held. The board of directors declares the candidate(s) to be elected and the secretary of the district shall immediately make and deliver a certificate of election to the candidate(s) signed by him and bearing the seal of the district. *(34-1407, 42-3211, Idaho Code)*

### **Is absentee voting allowed?**

Yes. Any registered elector of the water & sewer district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can water & sewer district directors be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Any vacancy occurring on the board is filled by the remaining members or member of the board. The appointee serves until the next biennial election. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the court having jurisdiction shall fill such vacancy. In the event the board has created director zones and is unable to appoint a board member from the zone vacated, the board may appoint a person-at-large who is an elector of the water and/or sewer district to serve as director of the zone where the vacancy occurred. *(42-3210, Idaho Code)*

**Water & Sewer District Elections**  
**Selected Code Sections**

- 42-3202 DEFINITION OF TERMS
- 42-3202A RECREATIONAL WATER AND/OR SEWER DISTRICT — DEFINITION
- 42-3202B WATER AND/OR SEWER DISTRICTS MEETING THE CRITERIA OF RECREATIONAL WATER AND/OR SEWER DISTRICT — CREATION
- 42-3202C CHANGING STATUS OF DISTRICT
- 42-3203 JURISDICTION TO ESTABLISH DISTRICTS
- 42-3204 PETITION — CONTENTS — AMENDMENTS
- 42-3205 BOND OF PETITIONERS
- 42-3206 NOTICE OF HEARING ON PETITION — JURISDICTION
- 42-3207 HEARINGS ON PETITIONS — ELECTION FOR ORGANIZATION AND DIRECTORS
- 42-3208 QUALIFICATION OF MEMBERS OF BOARD
- 42-3209 ORGANIZATION OF BOARD — ACCOUNTS OF TREASURER — COMPENSATION OF MEMBERS — ANNUAL AUDIT — REMOVAL OF DIRECTORS
- 42-3210 MEETINGS — VACANCIES
- 42-3211 ELECTIONS — TERMS OF OFFICE
- 42-3211A EXPIRATION OF TERM
- 42-3218 INCLUSION OF PROPERTY PETITIONED — HEARING — ORDER — ANNEXATION OF PROPERTY PETITIONED — HEARING — ORDER — ANNEXATION OF PROPERTY BY ELECTION — ELECTION PROCEDURE
- 42-3218A SUBDISTRICTS — AUTHORITY TO ESTABLISH — ELECTION
- 42-3218B ESTABLISHMENT
- 42-3218D INDEBTEDNESS — BOND ISSUES
- 42-3222 INDEBTEDNESS OF DISTRICT — SUBMISSION OF PROPOSITION TO ELECTORATE
- 42-3223 NOTICE OF ELECTION
- 42-3224 CONDUCT OF ELECTION — CANVASS OF RETURNS
- 42-3225 EFFECT OF ELECTION — SUBSEQUENT ELECTIONS
- 42-3233 MERGER AUTHORIZED
- 42-3234 MAJORITY VOTE REQUIRED
- 42-3235 VOTING PROCEDURE
- 42-3236 BALLOT
- 42-3237 COURT ORDER DECLARING MERGER
- 42-3239 DISSOLUTION OF A DISTRICT UPON TRANSFER OF ASSETS TO MUNICIPALITY

**42-3202. DEFINITION OF TERMS.** A water district is one to supply water for domestic, commercial, and/or industrial purposes by any available means, and for that purpose any such district shall have power to extend its water lines to the source of water supply.

A sewer district is one to provide for sewage disposal and for that purpose any such district shall have power to extend its sewer lines to an appropriate outlet.

A district may be created for a combination of water and sewer purposes, or either of said purposes. A district may be entirely within or entirely without, or partly within and partly without one (1) or more municipalities or counties, and the district may consist of noncontiguous tracts or parcels of property.

The word “board” as used in this chapter shall mean the board of directors of a district.

A “qualified elector” of a district, within the meaning of and entitled to vote under this chapter, unless otherwise specifically provided herein, is a person qualified to vote at general elections in this state, and who has been a bona fide resident of the district for at least thirty (30) days prior to any election in the district.

Wherever the term “publication” is used in this chapter and no manner specified therefor, it shall mean publication twice, the first time not less than twelve (12) days prior to the election and the second time

## **Water & Sewer District Elections Selected Code Sections**

not less than five (5) days prior to the election, as provided in section 34-1406, Idaho Code. (History: S.L. 1947, Ch. 152; S.L. 1955, Ch. 63; S.L. 1957, Ch. 29; S.L. 1974, Ch. 101; S.L. 1975, Ch. 189; S.L. 1995, Ch. 118)

**42-3202A. RECREATIONAL WATER AND/OR SEWER DISTRICT — DEFINITION.** A recreational water and/or sewer district is one in which less than a majority of the landowners or state lessees or federal permittees in the district sought to be created reside within the district and at least fifty percent (50%) of the land area of said district is in a natural state, or used for agricultural purposes.

The actual or potential development anticipated for said district shall be predominantly recreational in character. The district or areas near the district shall meet one (1) or more of the following criteria: have unique scenic value; man-made or natural recreational facilities such as waterways, marinas, ski slopes, wilderness areas; provide open space; and be removed from large, densely populated urban areas. Recreational water and/or sewer districts shall provide services and/or facilities to landowners or state lessees or federal permittees. The proposed district shall be in the best interests of the state of Idaho in that the benefits derived by property owners shall effectuate the preservation and development of recreational opportunities within the state.

An annexation shall not change the status of a recreational water and/or sewer district. (History: S.L. 1975, Ch. 189; S.L. 197, Ch. 272; S.L. 1980, Ch. 191; S.L. 1982, Ch. 364; S.L. 2016, Ch. 278)

**42-3202B. WATER AND/OR SEWER DISTRICTS MEETING THE CRITERIA OF RECREATIONAL WATER AND/OR SEWER DISTRICTS — CREATION.** Each petition filed with the clerk of the district court pursuant to the provisions of this chapter shall be verified and the petitioner shall certify or prove to the satisfaction of the court that the district sought to be created is a recreational water and/or sewer district under the terms of section 42-3202A, Idaho Code. The court decree pursuant to the provision of section 42-3207, Idaho Code, determining the nature of such district pursuant to the petitioner's prayer shall be conclusive for this and all other purposes. If the water and/or sewer district sought to be created is a recreational water and/or sewer district as defined in section 42-3202A, Idaho Code, such recreational water or sewer district shall be created in the manner provided in chapter 32, title 42, Idaho Code, except that the term, "qualified elector" shall mean any natural person who is qualified to vote in an Idaho general election, and who is an actual resident of the district, or who is an actual resident of Idaho, owning land within the boundaries of the district or area to be included within the district, or is a lease holder of a state recreational lease, or is a permit holder of a federal recreational use permit and pays personal property tax on improvements on the lease or permit area, irrespective of his or her place of residence in Idaho. The holder or holders of a bona fide contract to purchase any land within the proposed district whose names appear upon the next preceding county assessment roll for the payment of taxes on the land shall be deemed an owner of land for the purposes of this section. (History: S.L. 1979, Ch. 272; S.L. 1980, Ch. 191; S.L. 1982, Ch. 364; S.L. 1995, Ch. 118)

**42-3202C. CHANGING STATUS OF DISTRICT.** The board of directors of a water and/or sewer district may, at any time after the formation of such district, determine that the district qualifies as a recreational water and/or sewer district as defined under section 42-3202A, Idaho Code, and that it is in the best interest of the district to petition the court to change the district's status to a recreational water and/or sewer district. Said petition must be filed in the office of the clerk of the court vested with jurisdiction, in a county in which the major part of the real property in the existing district is situated. The petition must be signed by the chairman of the district's board of directors and shall set forth the following:

(1) The name of the existing district, date on which said district was formed and a general description of the district's boundaries.

(2) That the petition was initiated after a majority vote of the board of directors that it is in the best



## **Water & Sewer District Elections Selected Code Sections**

interest of the district to change its status to a recreational water and/or sewer district.

(3) The criteria the district meets under section 42-3202A, Idaho Code, thereby qualifying it as a recreational water and/or sewer district.

(4) A prayer for changing the status of the existing district to that of a recreational water and/or sewer district.

Upon filing of the petition, the court shall by order fix a time and place for hearing as provided in section 42-3206, Idaho Code. Upon the hearing of said petition any interested persons or corporations may appear before said court and make objections to the proposed status change. Further, if it then shall appear that the petition for a change in status has been signed and presented as hereinabove provided and the allegations of the petition are true, the court shall by order duly entered of record, grant the prayed for change of status of the existing district. (History: S.L. 1988, Ch. 302)

**42-3203. JURISDICTION TO ESTABLISH DISTRICTS.** The district court sitting in and for any county in this state, or any judge thereof in vacation, is hereby vested with jurisdiction, power and authority to establish districts which may be entirely within or partly within and partly without the judicial district in which said court is located. (History: S.L. 1947, Ch. 152)

**42-3204. PETITION — CONTENTS — AMENDMENTS.** The organization of a district shall be initiated by a petition filed in the office of the clerk of the court vested with jurisdiction, in a county in which the major part of the real property in the proposed district is situated. The petition shall be signed by not less than ten per cent (10%) of the taxpayers of the district, who pay a general tax on real property owned by him or her within the district; provided, however, that no single tract or parcel of property containing five (5) acres or more may be included in any district organized under this act without the consent of the owner or owners thereof.

The petition shall set forth:

(1) The name of the proposed district consisting of a chosen name preceding the words, "water district" or "sewer district," or "water and sewer district."

(2) A general description of the improvements to be constructed or installed within and for the district.

(3) The estimated cost of the proposed improvements.

(4) A general description of the boundaries of the district or the territory to be included therein, with such certainty as to enable a property owner to determine whether or not his property is within the district.

(5) A prayer for the organization of the district.

No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed, shall be considered by the court the same as though filed with the first petition placed on file. (History: S.L. 1947, Ch. 152)

**42-3205. BOND OF PETITIONERS.** At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on said petition a bond shall be filed, with security approved by the court, sufficient to pay all expenses connected with the proceedings in case the organization of the district be not effected. If at any time during the proceeding the court shall be satisfied that the bond first executed is insufficient in amount, it may require the execution of an additional bond within a time to be fixed, not less than ten (10) days distant, and upon failure of the petitioner to execute the same, the petition shall be dismissed. (History: S.L. 1947, Ch. 152)

## **Water & Sewer District Elections Selected Code Sections**

**42-3206. NOTICE OF HEARING ON PETITION — JURISDICTION.** Immediately after the filing of such petition, the court wherein such petition is filed or a judge thereof in vacation, shall by order fix a place and time, not less than twenty (20) days nor more than forty (40) days after the petition is filed, for hearing thereon and thereupon the clerk of said court shall cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon; the clerk of said court shall also forthwith cause a copy of said notice to be mailed by U.S. registered mail to the board of county commissioners of each of the several counties and to the governing body of each municipality having territory within the proposed district.

The district court in and for the county in which the petition for the organization of a district has been filed, shall thereafter for all purposes of this act, except as hereinafter otherwise provided, maintain and have original and exclusive jurisdiction, coextensive with the boundaries of the district, and of the real property proposed to be included in said district or affected by said district without regard to the usual limits of its jurisdiction.

No judge of such court wherein such petition is filed shall be disqualified to perform any duty imposed by this act by reason of ownership of property within any proposed district. (History: S.L. 1947, Ch. 152)

**42-3207. HEARINGS ON PETITIONS — ELECTION FOR ORGANIZATION AND DIRECTORS.** On the day fixed for such hearing or at any adjournment thereof the court shall ascertain from the tax rolls of the county or counties in which the district is located or into which it extends, the total number of taxpayers within the proposed district, who pay a general tax on real property owned by him or her within the district.

If the court finds that no petition has been signed and presented in conformity with this chapter, or that the material facts are not as set forth in the petition filed, it shall dismiss said proceedings and adjudge the costs against the signers of the petition in such proportion as it shall deem just and equitable. No appeal or writ of error shall lie from an order dismissing said proceedings; but nothing herein shall be construed to prevent the filing of a subsequent petition or petitions for similar improvements or for a similar district, and the right so to renew such proceedings is hereby expressly granted and authorized.

Any time after the filing of the petition for the organization of a district and before the day fixed for the hearing thereon, the owner or owners of any real property within the proposed district may file a petition with the court stating reasons why said property should not be included therein, why his land or any part thereof will not be benefited by the proposed district, or should not be embraced in said district and made liable to taxation therefor, and praying that said property be excluded therefrom. Such petition shall be duly verified and shall describe the property sought to be excluded. The court shall conduct a hearing on said petition and shall hear all objections to the inclusion in the district of any lands described in said petition. In case any owner of real estate included in said proposed district shall satisfy the court that his real estate, or any part thereof, has been wrongfully included therein or will not be benefited thereby then the court shall exclude such real estate as will not be benefited.

Upon said hearing, if it shall appear that a petition for the organization of a district has been signed and presented as hereinabove provided, in conformity with this chapter, and the allegations of the petition are true, the court shall, by order duly entered of record, direct that the question of the organization of the district shall be submitted to the qualified electors of the district.

Such election shall be held in conformity with the general election in this state, including chapter 14, title 34, Idaho Code, except that the court shall establish as many election precincts within such proposed district as are deemed necessary, and shall define the boundaries thereof, which precincts and boundaries may thereafter be changed by the county commissioners if the district is organized.

At any time after the filing of the petition herein referred to and before the day fixed for hearing, nominees for the board of directors of the district may be nominated by the filing of a petition designating the name or

## **Water & Sewer District Elections Selected Code Sections**

names of the nominee or nominees, signed by at least five (5) qualified electors of the district. If upon the hearing as herein provided the court shall order an election for the creation of the district, the court shall also ascertain the names of persons nominated by the board of directors, and shall order that the names of persons whom the court finds to have been properly nominated shall be listed upon a ballot submitted to the electors at such election. In the event the court makes its order providing for such election, it shall prescribe the form of the question and ballot relating to the creation of the district, and also the form of the ballot relating to the election of the directors; provided that all matters may be contained upon one (1) ballot to be submitted to the voters.

At such election the voters shall vote for or against the organization of the district, and for five (5) qualified electors, who shall constitute the board of directors of the district, if organized, one (1) director to act until the first biennial election, two (2) until the second, and two (2) until the third biennial election.

The judges of election shall certify the returns of the election to the district court having jurisdiction. If a majority of the votes cast at said election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which, in all proceedings, it shall thereafter be known, and designate the first board of directors elected, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and conclusively establish the regular organization of the said district against all persons except the state of Idaho, in an action in the nature of a writ of quo warranto, commenced by the attorney general within thirty (30) days after said decree declaring such district organized as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized. (History: S.L. 1947, Ch. 152; S.L. 1955, Ch. 63; S.L. 1957, Ch. 29; S.L. 1967, Ch. 186; S.L. 1995, Ch. 118; S.L. 2010, Ch. 185)

**42-3208. QUALIFICATION OF MEMBERS OF BOARD.** Whenever a district has been declared duly organized, the members of the board shall qualify by filing with the clerk of court their oaths of office, and corporate surety bonds at the expense of the district in an amount not to exceed \$1,000 each, the form thereof to be fixed and approved by the court, conditioned for the faithful performance of their duties as directors. (History: S.L. 1947, Ch. 152)

**42-3209. ORGANIZATION OF BOARD — ACCOUNTS OF TREASURER — COMPENSATION OF MEMBERS — ANNUAL AUDIT — REMOVAL OF DIRECTORS.** After taking oath and filing bonds, the board shall choose one (1) of its members as chairman of the board and president of the district, and shall elect a secretary and a treasurer of the board and of the district, who may or may not be members of the board. The secretary and the treasurer may be one person. Such board shall adopt a seal and the secretary shall keep, in a well-bound book, a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection of all owners of real property in the district, as well as to all other interested parties.

The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the district, in permanent records. He shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount not less than five thousand dollars (\$5,000), conditioned on the faithful performance of the duties of his office.

Each member of the board shall receive as compensation for his service a sum not in excess of one hundred dollars (\$100.00) per meeting, payable monthly. No member of the board shall receive any compensation as an employee of the district or otherwise, other than that herein provided, and no member of the board shall be interested in any contract or transaction with the district except in his official

## **Water & Sewer District Elections Selected Code Sections**

representative capacity.

It shall be the duty of the board of directors to cause an audit to be made of all financial affairs of the district during each year ending November 30th as required in section 67-450B, Idaho Code.

The court having jurisdiction of the district shall have the power to remove directors for cause shown, on petition, notice and hearing. (History: S.L. 1947, Ch. 152; S.L. 1965, Ch. 191; S.L. 1977, Ch. 7; S.L. 1993, Ch. 44; S.L. 1993, Ch. 387; S.L. 2003, Ch. 36)

**42-3210. MEETINGS — VACANCIES.** The board shall meet regularly once each month at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the district require, on notice to each member of the board. Three (3) members of the board shall constitute a quorum at any meeting. Any vacancy on the board shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election when the vacancy shall be filled by election. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the court having jurisdiction shall fill such vacancy. In the event the board has created director zones and is unable to appoint a board member from the zone vacated, the board may appoint a person-at-large who is an elector of the water and/or sewer district to serve as director of the zone where the vacancy occurred. (History: S.L. 1947, Ch. 152; S.L. 2016, Ch. 278)

**42-3211. ELECTIONS — TERMS OF OFFICE.** (1) On the third Tuesday in May, in the first odd-numbered year after the organization of any district, and on the third Tuesday in May every second year thereafter an election shall be held, which shall be known as the biennial election of the district. Such election shall be held and conducted consistent with the provisions of chapter 14, title 34, Idaho Code.

(2) In districts created under section 42-3202B, Idaho Code, biennial elections shall be held on the third Tuesday in May.

(3) At the first biennial election in any district hereafter organized, and each sixth year thereafter, there shall be elected by the qualified electors of the district, one (1) member of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years, and at the third biennial election, and each sixth year thereafter, there shall be elected two (2) members of the board to serve for terms of six (6) years.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that the number of qualified candidates who have been nominated is equal to the number of directors to be elected, it shall not be necessary for the candidates to stand for election, and the board of directors shall declare such candidates elected as directors, and the secretary of the district shall immediately make and deliver to such persons certificates of election signed by him and bearing the seal of the district. (History: S.L. 1947, Ch. 152; S.L. 1957, Ch. 29; S.L. 1980, Ch. 257; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341; S.L. 2010, Ch. 185; S.L. 2011, Ch. 11)

**42-3211a. EXPIRATION OF TERM.** Any person serving as a board member for a recreational water district, recreational sewer district or a recreational water and sewer district, whose term of office would, after the effective date of this act, expire in January shall continue to serve until the following July election, and all subsequently elected board members shall serve terms of office beginning and ending in July. (History: S.L. 1980, Ch. 257)

**42-3211b. DECISION TO ESTABLISH BOARD DIRECTOR ZONES.** Subsequent to the creation of a water and/or sewer district and the election of the first board of directors, the water and/or sewer district board of directors may elect, by resolution, to divide the district into five (5) director zones, as nearly equal in area and parcels to be served as practicable, to be known as zones one, two, three, four and five. If the board of directors elects to create director zones, then it shall also, prior to the next district election,

## **Water & Sewer District Elections Selected Code Sections**

adopt a director election transition schedule for each zone, in accordance with the terms of office of the existing directors, which provides that at the end of the last then-currently serving director term, there will not be more than one (1) director per director zone.

(1) In the event the board of directors establishes director zones, each water and/or sewer district director shall be elected on a districtwide basis.

(2) Director zones may be revised or modified by the board of directors as conditions governing their establishment change. (History: S.L. 2016, Ch. 278)

**42-3218. INCLUSION OF PROPERTY PETITIONED — HEARING — ORDER — ANNEXATION OF PROPERTY PETITIONED — HEARING — ORDER — ANNEXATION OF PROPERTY BY ELECTION — ELECTION PROCEDURE.** The boundaries of any district organized under the provisions of this chapter may be changed in the manner herein prescribed, but the change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any such change of boundaries not been made.

(a) The owners of real property may file with the board a petition, in writing, praying that such real property be included in the district. The petition shall describe the property owned by the petitioners, and such petition shall be deemed to give assent of the petitioners to the inclusion in said district of the property described in the petition, and shall be accompanied by a reasonable filing fee in an amount to be determined by the board. Such petition must be acknowledged in the same manner that conveyances of land are required to be acknowledged. The secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition should not be granted. The failure of any person to show cause in writing shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed in the petition. If the petition is granted, the board shall make an order to that effect and, upon approval of said order, the property shall be included in the district.

(b) The territory adjoining or in close proximity to and in the same county with any district created under the provisions of this chapter may be annexed to the district by either of the following procedures: (1) A petition for annexation of real property described in such petition, which has been signed by the owners of not less than sixty percent (60%) of the area in land within the territory to be annexed, and which contains the separate property descriptions of such petitioners, and which is acknowledged in the same manner that conveyances of land are required to be acknowledged, accompanied by a reasonable filing fee in an amount to be determined by the board, may be filed with the board. Upon filing with the board of such a petition, the secretary of the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands mentioned and the prayer of such petitioners; giving notice to all persons interested, including the staff and employees of said district and anyone designated by said district, to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition should not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The failure of any person to show cause in writing shall be deemed as an assent to the annexation of such lands into the district as prayed in the petition. The board shall have full discretion to determine if the petition shall

## **Water & Sewer District Elections Selected Code Sections**

be granted. If the petition is granted, the board shall make an order to that effect. (2) Upon filing with the board of a petition signed by registered voters owning real property residing in the territory to be annexed, who constitute at least twenty percent (20%) of the taxpayers in such territory, praying for an election to determine if annexation shall be made of property designated in such petition, together with payment of a reasonable filing fee in an amount to be determined by the board, the board shall cause notice of filing of such petition to be given and published in the county in which the property is situated, which notice shall state the filing of such petition, names of petitioners, descriptions of lands to be annexed and the prayer of such petition; giving notice to all persons interested, including the staff and employees of said district and anyone designated by said district to appear at the office of the board at the time named in said notice and show cause in writing, if any they have, why the petition shall not be granted. The board shall at the time and place mentioned or at such time or times to which the hearing may be adjourned, proceed to hear the petition and all objections thereto, presented, in writing, by any person showing cause why said petition shall not be granted. The board shall have full discretion to determine if the petition shall be granted, and if such petition is granted, the board shall direct that an election be held, subject to the provisions of section 34-106, Idaho Code. The election shall be conducted in the same manner as general elections in this state, except that the board shall establish as many voting places within such territory proposed to be annexed as are by the board deemed necessary and shall define the boundaries of such voting places. The board shall appoint three (3) judges of election for each voting place, one (1) of whom shall be designated by the board to be the clerk of such election precinct. Each elector shall be registered as required by the general election laws and shall have resided within the area to be annexed for thirty (30) days.

The secretary of the board of directors shall publish notice of the time and place of such election, in accordance with the provisions of section 34-1406, Idaho Code. The notice shall particularly describe the property to be annexed, the name of the district to which the territory is proposed to be annexed, and the terms and conditions prescribed by the board under which the property may be annexed. The notice shall designate the places in the territory where the election will be held, and shall require the voters to cast ballots which shall contain the words:

For annexation to .... District.

Against annexation to .... District.

The judges of the election shall make their return thereof to the board of directors of the district, which shall canvass the returns and render a statement of the results of the election on the records of the board. If the majority of the votes cast favor annexation, the board shall enter an order annexing the property described in the notice of election and the territory shall thereupon become annexed to the district and shall thenceforth be a part of the district.

(c) In all proceedings for inclusion or annexation hereunder, the board shall have the power to prescribe terms and conditions under which said property may be included in the district, including the condition that such property may only be annexed or included within the district if the property is also established as a water or sewer subdistrict of the district, pursuant to sections 42-3218A through 42-3218D, Idaho Code, and may be required to pay the district its pro rata share of construction costs theretofore incurred by the district pursuant to any bond issue theretofore made or otherwise; provided, however, that such terms and conditions shall be announced by the board at or before the hearing to be held pursuant to subparagraphs (a) and (b) above. Within ten (10) days of the announcement of the terms and conditions under which the property may be included the majority of the petitioners filing petitions under the provisions of subparagraphs (a) or (b) may withdraw their petitions, and no further proceedings shall thereafter be had by the board upon such petitions.

(d) All public streets, roads, highways or alleys upon or within which is situated any part of the operative system or equipment of the district and all public streets, roads, highways and alleys which abut against or touch property annexed or to be annexed to the district, to the extent they abut against or touch such

## **Water & Sewer District Elections Selected Code Sections**

property and are not included in a different district, shall be deemed to be included in the district as a part of the annexation and shall be included in the legal description and map which the district must file in the offices of the county assessor, county recorder and the state tax commission as required by section 63-215, Idaho Code; provided, however, that upon application by the district to the state tax commission, if the commission finds after consultation with the county assessor and the county recorder that exemption from the requirements of this subparagraph (d) will not unduly burden state and local tax administration, the commission by order may exempt the district from the requirements of this subparagraph (d), but the district shall be required to comply with section 63-215, Idaho Code. (History: S.L. 1947, Ch. 152; S.L. 1957, Ch. 29; S.L. 1969, Ch. 274; S.L. 1973, Ch. 110; S.L. 1975, Ch. 28; S.L. 1988, Ch. 215; S.L. 1995, Ch. 118; S.L. 1996, Ch. 322; S.L. 2006, Ch. 167)

**42-3218A. SUBDISTRICTS — AUTHORITY TO ESTABLISH — ELECTION.** The board of directors of any water or sewer district organized under the provisions of chapter 32, title 42, Idaho Code, may at any time, on their own motion, call an election to submit to the qualified electors of a proposed water or sewer subdistrict the question of the creation of a water or sewer subdistrict. The election shall be called, held, and conducted pursuant to the provisions of chapter 32, title 42, Idaho Code. The proceedings calling the election shall set forth the boundaries of the proposed water or sewer subdistrict and shall provide for the submission of the question of the creation of the water or sewer subdistrict to the qualified electors residing within the proposed boundaries of the water or sewer subdistrict. No proposition for the creation of a water or sewer subdistrict shall be determined to have carried unless the proposition shall receive a majority of the votes cast. Whenever the creation of more than one (1) water or sewer subdistrict is submitted at the same election, separate ballots and separate propositions shall be used in voting on the question of creating each water or sewer subdistrict. (History: S.L. 1988, Ch. 215; S.L. 1996, Ch. 73)

**42-3218B. ESTABLISHMENT.** Whenever a proposition for the creation of a water or sewer subdistrict shall have been approved in the manner set forth in section 42-3218A, Idaho Code, the board of directors of the water or sewer district shall enter in the minutes of the board an order providing for the establishment and creation of the water or sewer subdistrict setting forth therein the legal description of the boundaries thereof, and shall designate therein a name for such water or sewer subdistrict. Within ten (10) days after the entry of the order creating a water or sewer subdistrict, the board of directors shall certify the fact of the creation of the water or sewer subdistrict to the board of county commissioners of each county in which any part of the water or sewer subdistrict is located, by the filing of a certified copy of the order of the board of directors creating and establishing the water or sewer subdistrict. (History: S.L. 1988, Ch. 215)

**42-3218D. INDEBTEDNESS — BOND ISSUES.** Water or sewer subdistricts may incur debt and issue bonds for the purpose of acquiring, purchasing, or improving a water or sewer site or sites, and acquiring or constructing new water or sewer facilities. The governing body of a water or sewer subdistrict may submit to the qualified electors of the water or sewer subdistrict the question of whether the governing body of the water or sewer subdistrict shall be empowered to issue negotiable bonds of the water or sewer subdistrict in an amount and for a period of time to be named in the notice of election. Notice of the bond election shall be given, the election shall be conducted and the returns thereof canvassed and the qualifications of electors voting or offering to vote shall be as provided in chapter 32, title 42, Idaho Code. (History: S.L. 1988, Ch. 215)

**42-3222. INDEBTEDNESS OF DISTRICT — SUBMISSION OF PROPOSITION TO ELECTORATE.** Whenever any board shall, by resolution, determine that the interest of said district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or

## **Water & Sewer District Elections Selected Code Sections**

other improvements or facilities, or the making of any contract with the United States or other persons or corporations, public or private, municipalities, or governmental subdivisions, to carry out the objects or purposes of said district, requiring the creation of an indebtedness that will exceed the income and revenue provided for the year, said board shall order the submission of the proposition of issuing such obligations or bonds, or creating other indebtedness to the qualified electors of the district at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose. The declaration of public interest or necessity herein required and the provision for the holding of such election may be included within one and the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolution shall also fix the date upon which such election shall be held and the manner of holding the same and the method of voting for or against the incurring of the proposed indebtedness. Such resolution shall also fix the compensation to be paid the officers of the election and shall designate the polling place or places and shall appoint, for each polling place from the electors of the district, the officers of such election consisting of three (3) judges, one (1) of whom shall act as clerk. (History: S.L. 1947, Ch. 152; S.L. 1957, Ch. 29; S.L. 1971, Ch. 25; S.L. 1992, Ch. 151, S.L. 1995, Ch. 118)

**42-3223. NOTICE OF ELECTION.** The board shall prescribe the form of the notice of election, and direct the publication of the same in accordance with the provisions of sections 34-1405 and 34-1406, Idaho Code. (History: S.L. 1947, Ch. 152; S.L. 1995, Ch. 118)

**42-3224. CONDUCT OF ELECTION — CANVASS OF RETURNS.** The election board or boards shall conduct the election in the manner prescribed by law for the holding of general elections, including chapter 14, title 34, Idaho Code, and shall make their returns to the secretary of the district, provided that precincts shall be as provided in section 42-3207, Idaho Code. At any regular or special meeting of the board held within ten (10) days following the date of such election, the returns thereof shall be canvassed and the results thereof declared. (History: S.L. 1947, Ch. 152; S.L. 1967, Ch. 186; S.L. 1995, Ch. 118)

**42-3225. EFFECT OF ELECTION — SUBSEQUENT ELECTIONS.** In the event that it shall appear from said returns that two-thirds (2/3) of said qualified electors who are taxpayers of the district who shall have voted on any proposition submitted hereunder at such election voted in favor of such proposition, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract or issue and sell such bonds of the district, as the case may be, all for the purpose or purposes and object or objects provided for in the proposition submitted hereunder and in the resolution therefor, and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in such resolution. Submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent election or elections called for such purpose. (History: S.L. 1947, Ch. 152)

**42-3233. MERGER AUTHORIZED.** Two (2) or more water and/or sewer districts may vote to merge upon such terms as the districts may agree. In order to bring the matter to a vote, each board of directors, by majority vote, must independently vote to call an election for a vote to merge. (History: S.L. 1982, Ch. 88)

**42-3234. MAJORITY VOTE REQUIRED.** If all boards of directors of districts proposing to merge call for the election, each district shall independently hold an election, subject to the provisions of section 34-106, Idaho Code, and if more than a majority of those voting in each election favor the merger, the merger shall occur. (History: S.L. 1982, Ch. 88; S.L. 1995, Ch. 118)



**Water & Sewer District Elections  
Selected Code Sections**

**42-3235. VOTING PROCEDURE.** Qualifications for and methods of voting, conduct of the election and canvass of the returns shall be the same as provided for the election of a director. (History: S.L. 1982, Ch. 88)

**42-3236. BALLOT.** Each ballot shall have attached to it a summary of the terms of the merger, and the ballot issue shall read:

Shall .....and .....sewer and/or water districts merge into one sewer and/or water district to be known as .....on the summary of terms outlined.

YES  NO

(PLACE AN "X" IN THE BOX REFLECTING YOUR CHOICE.)

(History: S.L. 1982, Ch. 88)

**42-3237. COURT ORDER DECLARING MERGER.** In the event all districts voting on the issue pass the same, each board shall certify the results of the election to the district court in which most of the territory of the merged district will be. Upon satisfying itself that the election proceedings were proper in each district, the court shall enter an order creating the merged district under the terms presented to the voters. The court shall also select five (5) directors for the newly merged district from among the directors of the constituent districts recommended for such positions and shall set their terms of office. (History: S.L. 1982, Ch. 88)

**42-3239. DISSOLUTION OF A DISTRICT UPON TRANSFER OF ASSETS TO MUNICIPALITY.** (1) A water, sewer, or combined water and sewer district may transfer to a municipality the assets of the district and dissolve upon a determination that each of the following conditions exists:

- (a) The municipality is capable of providing all the essential functions of the district;
- (b) The municipality has agreed to assume and perform the essential functions of the district;
- (c) The municipality either has or is acquiring sufficient assets, infrastructure, and other resources to perform the essential operations of the district;
- (d) Provisions have been made for the retirement, payment or assumption of any debt, bonds, or other liabilities and obligations of the district;
- (e) Provisions have been made for the liquidation and disbursement of district assets and infrastructure not intended to be transferred to the municipality; and
- (f) Notice of the proposed transfer has been published once a week for two (2) consecutive weeks prior to the hearing in a newspaper of general circulation in the district, including information on the petition for an election on the proposed transfer; and
- (g) An election has been held, if required pursuant to subsection (3) of this section, and the transfer has been approved by a majority of the qualified electors of the district voting on the issue.

(2) Prior to passage of a resolution making the required determination, the district board shall hold a hearing to receive public testimony on the proposed transfer. The public hearing shall be preceded by a notice published once a week for two (2) consecutive weeks preceding the hearing, in a newspaper of general circulation in the district. The notice shall state the date, time and location of the hearing and that the purpose of the hearing is to receive public testimony on the proposed transfer and the method for a petition of qualified electors of the district to be submitted requesting an election to approve the proposed transfer.

(3) After the hearing, the district board may submit the proposed transfer to the qualified electors of the district, or shall take the matter under advisement for a period of thirty (30) days after the hearing. An election shall be held if, prior to the expiration of the thirty (30) day period, a petition signed by not less than ten percent (10%) of the qualified electors of the district is submitted requesting an election on

## **Water & Sewer District Elections Selected Code Sections**

the proposed transfer. If at the end of the thirty (30) day period no petition has been submitted with the required number of signatures, the district board may proceed to adopt the resolution finding the above conditions exist and approving the transfer. An election held pursuant to the provisions of this subsection shall be conducted according to the provisions of section 34-106, Idaho Code, and the proposed transfer shall be approved by a majority of the qualified electors of the district voting on the issue in order for the district board to proceed to adopt a resolution approving the transfer.

(4) In the event the district board and the municipality adopt resolutions finding the above conditions exist and approving the transfer, the district board shall file with the district court in which the district and municipality are located, a certified copy of the district resolution; certified results of the election approving the transfer, if applicable; a certified copy of the resolution of the municipality; and all other necessary documentation requested by the district court. Upon satisfying itself that the required conditions exist, the district court shall enter an order approving the transfer and assumption and establishing the date on which the district shall be dissolved; provided however, upon good cause shown, the court may extend the date upon which the district shall be dissolved. Such order shall be recorded with the county recorder and filed with the county assessor in the counties within which the district is located and filed with the state tax commission within thirty (30) days following the effective date of such dissolution. If an agreement exists between the district and municipality setting the requirements for postdissolution operations, the municipality shall operate the sewer and/or water system(s) in accordance with the agreement. (History: S.L. 2005, Ch. 244)

**42-3240. ANNEXATION OR WITHDRAWAL OF AREA IN A CITY.** Any area embraced within the limits of any city may be annexed into or withdrawn from a water and/or sewer district organized under this chapter in accordance with the following:

(1) The city council of the city and the board of directors of the water and/or sewer district approve the terms and conditions of the annexation or withdrawal by ordinance or resolution.

(a) In the event any of the area within any city, subject to annexation to or withdrawal from a water and/or sewer district is being served by an existing city or district water or sewer system, the following conditions must exist, which conditions must be stated in the city's and the district's ordinance or resolution:

(i) The annexing district or, upon a withdrawal, the city is capable of providing all the essential functions of the existing system;

(ii) The annexing district or, upon a withdrawal, the city has agreed to assume and perform the essential existing system functions;

(iii) The annexing district or, upon a withdrawal, the city either has or is acquiring sufficient assets, infrastructure and other resources to perform the essential operations of the existing system;

(iv) Provisions have been made for the retirement, payment or assumption of any debt, bonds or other liabilities and obligations of the existing system;

(v) Provisions have been made for the liquidation and disbursement of the existing system assets and infrastructure not intended to be transferred;

(vi) Provisions have set forth requirements for post-annexation or withdrawal operations and may also provide that the annexed area be designated as a district subdistrict and provide for director zones;

## **Water & Sewer District Elections Selected Code Sections**

(vii) That notice of the proposed annexation or withdrawal and transfer has been published once a week for two (2) consecutive weeks preceding the hearing in a newspaper of general circulation in the city and the district, including information on filing a petition for an election on the proposed transfer; and

(viii) That an election has been held, if required pursuant to paragraph (d) of this subsection, and the transfer has been approved by a majority of the qualified electors of the district and city voting on the issue.

(b) Prior to passage of a resolution making the required determination, the city council and the district board of directors shall hold a joint hearing to receive public testimony on the proposed transfer. The joint public hearing shall be preceded by a joint notice published once a week for two (2) consecutive weeks preceding the hearing in a newspaper of general circulation in the city and the district. The notice shall state the date, time and location of the joint public hearing and that the purpose of the hearing is to receive public testimony on the proposed annexation or withdrawal, transfer and agreement of operations and the method for a petition of qualified electors of the city and the district to be submitted requesting an election to approve the proposed annexation or withdrawal, transfer and agreement of operations.

(c) After the joint public hearing, the city council and the district board of directors, by majority vote of both governing bodies, may jointly submit the proposed transfer to the qualified electors of the city and the district or shall take the matter under advisement for a period of thirty (30) days after the hearing. An election shall be held if, prior to the expiration of the thirty (30) day period, a petition signed by at least ten percent (10%) of the qualified electors of the city and/or the district is submitted requesting an election on the proposed annexation or withdrawal, transfer and agreement of operations. If at the end of the thirty (30) day period no petition has been submitted with the required number of signatures, the city council and the district board of directors may proceed to adopt a resolution or ordinance finding the above conditions exist and approving the annexation or withdrawal, transfer and agreement of operations.

(d) An election held pursuant to the provisions of this subsection shall be conducted according to the provisions of section 34-106, Idaho Code, and the proposed annexation or withdrawal, transfer and agreement of operations shall be approved by a majority of the qualified electors of the city and a majority of the qualified electors of the district voting on the issue in order for the city council and the district board of directors to proceed to adopt a resolution or ordinance approving the annexation or withdrawal, transfer and agreement of operations.

(2) In the event the city council and district board of directors approve the terms and conditions of the annexation or withdrawal, transfer and agreement of operations by ordinance or resolution, the city and district shall jointly file with the district court in which the majority of the area of the district and city are located a certified copy of the city's ordinance or resolution and the district's ordinance or resolution; certified results of the election approving the annexation or withdrawal, transfer and agreement of operations, if applicable; and all other necessary documentation requested by the district court. Upon satisfying itself that the required conditions of this section exist, the district court shall enter an order approving the annexation or withdrawal, transfer and agreement of operations and establish the date on which the annexation or withdrawal and transfer of assets shall occur and the effective date of the agreement of operations; provided however, upon good cause shown, the court may extend the annexation or withdrawal and transfer of assets date and the effective date of the agreement of operations. Such orders shall be recorded with the county recorder and filed with the county assessor in the counties within which the district and the city are located and filed with the state tax commission within thirty (30) days following the effective date of such annexation or withdrawal, transfer and agreement of operations.

***Water & Sewer District Elections  
Selected Code Sections***

(3) If the ordinance or resolution approved by the city and the district includes an agreement of operations setting forth the requirements for post-annexation or withdrawal system operations, the district in an annexation and the city in a withdrawal shall operate the sewer and/or water system(s) in accordance with the agreement.

(4) The provisions of this section do not apply to any petition filed with the board for the annexation of real property by landowners pursuant to section 42-3218, Idaho Code. (History: S.L. 2016, Ch. 278)

## **Watercourses & Port District Elections Frequently Asked Questions**

### **When are port district elections held?**

Elections for commissioners for port districts are held on the Tuesday following the first Monday in November in even-numbered years. In the event more than two (2) candidates file for commissioner in any commissioner district after the deadline for withdrawal, the county clerk will hold a primary election on the third Tuesday of May in the even-numbered year. The two (2) candidates who receive the most votes in the commissioner district will appear on the general election ballot for the port district in November. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (34-106, 70-1208, 70-1213, Idaho Code)

### **How many commissioners are elected in a port district and what are their terms of office?**

A port district is governed by a board of three (3) commissioners, one from each of the three (3) county commissioner districts of the county, unless the district doesn't encompass the entire county. Commissioners are elected for terms of six (6) years. (70-1201, 70-1203, Idaho Code)

### **How do I know if I'm eligible to vote in a port district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The secretary of the district or the County Clerk's Election Department can tell you if you are eligible to vote in district elections. (34-104, 34-1402, 70-1211, Idaho Code)

### **What are the requirements if I want to run for port district commissioner?**

Commissioner candidates must be a qualified elector and a resident of the district.

Candidates for election as a port district commissioner file nominating petitions which include signatures of at least five (5) qualified electors from the district.

The Declaration of Candidacy and Petitions of Candidacy forms are available from and filed with the county clerk of the county in which the district is situated. The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election. (34-1404, 70-1202, 70-1212, Idaho Code; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

The county clerk administers district elections in accordance with the provisions of Title 34, Chapter 14, Idaho Code. The County Clerk shall appoint judges, give notice of election by publication, and arrange such other details in connection therewith. (34-1401, 70-1210, Idaho Code)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the county clerk not less than forty-five (45) days before the election. Declaration of Intent forms can be obtained from the County Clerk's Election Office. (34-1407, 70-1212 Idaho Code)

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a commissioner position, no election will be held. The port commission shall declare such candidate elected as a commissioner and the secretary of the commission shall immediately make and deliver to such person a certificate of election. (34-1407, 70-1212, Idaho Code)

## **Watercourses & Port District Elections Frequently Asked Questions**

### **Is absentee voting allowed?**

Yes. Any registered elector of the port district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. *(34-1002, 34-1408, Idaho Code)*

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. *(34-1409, Idaho Code)*

### **Can port district commissioners be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. *(34-1701, Idaho Code)*

### **How are vacancies filled?**

Statute is silent on procedure. Section 59-912, Idaho Code, may come into play (i.e., Governor appoints).

### **How are measures placed on the ballot?**

The president and secretary submits the ballot question to the County Clerk within sixty (60) days prior to the election. However, to allow for the timely printing of the ballots, the ballot question needs to be submitted to the County Clerk at least forty-five (45) days before the election. *(34-106, 70-1214, Idaho Code)*

**Watercourses & Port District Elections  
Selected Code Sections**

70-1201	COMMISSIONERS — COMMISSIONER DISTRICTS
70-1202	COMMISSIONER — QUALIFICATIONS
70-1203	COMMISSIONERS — FIRST ELECTION
70-1204	COMMISSIONERS — COMMENCEMENT OF TERM
70-1205	COMMISSIONERS FOR ANNEXED AREA — ORIGINAL COUNTY
70-1206	COMMISSIONERS FOR ANNEXED AREA OF ADJACENT COUNTY
70-1207	SUBSEQUENT COMMISSIONERS — TERM OF OFFICE
70-1208	COMMISSIONERS — ELECTIONS AFTER FORMATION
70-1209	FORMATION OR ANNEXATION BETWEEN GENERAL ELECTIONS — ELECTION OF SUBSEQUENT COMMISSIONERS
70-1210	ELECTION PROCEDURE — SUPPLIES
70-1211	ELECTIONS — VOTER QUALIFICATIONS
70-1212	ELECTIONS — NOMINATING PETITIONS
70-1213	PRIMARY ELECTIONS
70-1214	GENERAL ELECTIONS — SUBMISSION OF PROPOSITIONS OR PROPOSALS
70-1215	ADDITIONAL ELECTIONS
70-1217	ADDITIONAL ELECTIONS — POLLING PLACES
70-1218	ADDITIONAL ELECTIONS — REGISTRATION BOOKS
70-1219	ELECTIONS — CANVASS OF VOTES
70-1220	ELECTIONS — EXPENSES

**70-1201. COMMISSIONERS — COMMISSIONER DISTRICTS.** The powers of the port district shall be exercised through a port commission consisting of three (3) members, one (1) from each of the three (3) county commissioner districts of the county in which the port district is located, when the boundaries of the port district are co-extensive with the boundaries of such county. When the port district comprises only a portion of a county, three (3) commissioner districts, numbered consecutively, having approximately equal population and with boundaries following county precinct lines, shall be described in the petition for the formation of the port district, and one (1) commissioner shall be elected from each of said commissioner districts. Any port district may, after formation, be redistricted in the original county of formation as in this act provided. (History: S.L. 1969, Ch. 55)

**70-1202. COMMISSIONERS — QUALIFICATIONS.** No person shall be eligible to hold the office of port commissioner unless he is a qualified elector of the state of Idaho and a resident of the district from which he is seeking office. (History: S.L. 1969, Ch. 55)

**70-1203. COMMISSIONERS — FIRST ELECTION.** At the same election at which the proposition is submitted to the voters as to whether a port district shall be formed, three (3) commissioners shall be elected to hold office, respectively for the terms of two (2), four (4) and six (6) years. All candidates at the formation election shall be voted upon by the entire port district, and the candidate residing in commissioner district number one (1) receiving the highest number of votes shall hold office for the term of six (6) years; and the candidate residing in commissioner district number two (2) receiving the highest number of votes shall hold office for the term of four (4) years; and the candidate residing in commissioner district number three (3) receiving the highest number of votes shall hold office for the term of two (2) years. In all subsequent elections in the county of original formation, the port commissioners shall likewise be elected at large within that area of such county embracing the port district. (History: S.L. 1969, Ch. 55)

## **Watercourses & Port District Elections Selected Code Sections**

**70-1204. COMMISSIONERS — COMMENCEMENT OF TERM.** The terms of all commissioners elected under any section of this chapter shall date from the first day in January following the general election at which they were elected, if elected at a general election, or if elected at other than a general election on the date specified in the certificate of election. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118)

**70-1205. COMMISSIONERS FOR ANNEXED AREA — ORIGINAL COUNTY.** No additional commissioner shall be elected to represent any annexed area of the county in which the port district was formed, but the port district within such county shall, after each such annexation, be redistricted as in this act provided. (History: S.L. 1969, Ch. 55)

**70-1206. COMMISSIONERS FOR ANNEXED AREA OF ADJACENT COUNTY.** At the same election at which a proposition for annexation of land to an existing district is submitted to vote, if the area to be annexed includes land in a county or counties other than the county in which the original port district exists, one (1) commissioner shall be elected by the voters in such area within the adjacent county or counties to represent such area in case such annexation shall be accomplished as a result of such election. Such commissioner shall hold office for a term of six (6) years and until his successor is elected and qualified. Such commissioner and his successor shall be elected by vote only of the residents of that portion of such county or counties lying within such port district. Such commissioner shall have the same qualifications as herein provided for other commissioners of the district, and shall be a resident of such area. If the annexation shall be accomplished, the port commission shall thereafter consist of the three (3) commissioners of the original port district and the commissioner for such adjacent county or counties. In like manner, in the event of any subsequent annexations, a commissioner having the qualifications herein set forth shall be elected to serve for a six (6) year term as commissioner for such adjacent county or counties, and the port commission shall be expanded to include the commissioner from each such annexed area; provided, that a port commission shall never exceed five (5) commissioners and no commissioner shall be elected to represent any area annexed to any port commission already having, or being authorized by law to have, five (5) commissioners. (History: S.L. 1969, Ch. 55)

**70-1207. SUBSEQUENT COMMISSIONERS — TERM OF OFFICE.** Commissioners elected subsequent to the formation and/or annexation election shall hold office for a period of six (6) years and until their respective successors are elected and qualified. (History: S.L. 1969, Ch. 55)

**70-1208. COMMISSIONERS — ELECTIONS AFTER FORMATION.** A general election for election of a port commissioner or commissioners and for the submission to vote of any propositions or proposals shall be held biennially in conjunction with the general county elections in the county of original formation, and at the appropriate times subject to the provisions of section 34-106, Idaho Code, in all annexed counties. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118)

**70-1209. FORMATION OR ANNEXATION BETWEEN GENERAL ELECTIONS — ELECTION OF SUBSEQUENT COMMISSIONERS.** If any formation or annexation election be held, subject to the provisions of section 34-106, Idaho Code, at any time other than at the time of a general election, then there shall be no election held on the next subsequent general election following the creation of, or annexation to, such port district, as to the commissioners elected at such formation and/or annexation election. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118)

**70-1210. ELECTION PROCEDURE — SUPPLIES.** Such general election shall be conducted by the county clerk according to the provisions of chapter 14, title 34, Idaho Code. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)



## ***Watercourses & Port District Elections Selected Code Sections***

**70-1211. ELECTIONS — VOTER QUALIFICATIONS.** All electors who are, at the time of any port district election, residents of such district and duly qualified to vote within their respective precincts under the general election laws for state and county officers, shall be deemed qualified electors in said port district, but only as to commissioners representing the port area within the county of their residence, and as to propositions to be voted on within such area within their county of residence. (History: S.L. 1969, Ch. 55)

**70-1212. ELECTIONS — NOMINATING PETITIONS.** Nominations for port commissioners at the formation election, at any annexation elections, and for all general elections shall be by petition of not less than five (5) qualified electors of the commissioner district of which the candidate is a resident, and shall be filed in the office of the county clerk of the county in which such commissioner district is situated, in accordance with the provisions of section 34-1404, Idaho Code.

In any election for commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a commissioner position, it shall not be necessary for the candidate to stand for election, and the port commission shall declare such candidate elected as a commissioner, and the secretary of the commission shall immediately make and deliver to such person a certificate of election. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118)

**70-1213. PRIMARY ELECTIONS.** In the event valid nominating petitions for more than two (2) candidates remain on file for the office of port district commissioner in any commissioner district after the last day for withdrawal of candidacy, the county clerk shall conduct a port district primary at the same time he conducts the county primary election. At all such nominating elections, the nomination of candidates shall be nonpartisan, and the ballot, or portion of ballot, to be used for such nominating election shall be designated "Port District Nominating Ballot, Port of ...." (inserting the name of the appropriate port district), and such ballot shall not have upon it any political party designation nor statement of any affiliation whatever of any candidate named thereon. In the event no more than two (2) such nominating petitions remain on file for the office of port district commissioner in any port commissioner district after the last day for withdrawal of candidacy, the county clerk shall not conduct such port district primary, but shall cause the name of such candidates to be printed upon the port district ballot for the general election only. Such general election ballot, or portion of the ballot for use in such port election, shall be designated "Official Ballot, Port of ...." (inserting therein the name of such port district), and shall contain no political party designation nor statement of any affiliation whatsoever of any candidate named thereon.

In the event a primary election is conducted for the office of port district commissioner, the name of the person who receives the greatest number of votes and of the person who receives the second greatest number of votes for each commissioner district, shall appear upon the port district general election ballot under the designation for each respective office. Names of candidates printed on the district primary and general election ballots shall be rotated, as nearly as may be, in the same manner as are names of candidates under the election laws of this state relating to the election of county officers.

Any port commissioner may be recalled in accordance with the statutory provisions for the recall of county officers then in effect; provided, however, that only voters residing within and qualified to vote within the port district may vote at any such recall election. (History: S.L. 1969, Ch. 55)

**70-1214. GENERAL ELECTIONS — SUBMISSION OF PROPOSITIONS OR PROPOSALS.** In the event the port commissioners shall determine to submit any propositions or proposals to the voters at any such general election, the president and secretary of such port district, shall, within sixty (60) days prior to said general election, certify to the county clerk of each county in which said port district exists, or in which such proposition or proposal is to be submitted, a statement of the propositions or proposals to be submitted, in the form the same are to be placed upon the port district ballot, and the county clerk shall

**Watercourses & Port District Elections**  
**Selected Code Sections**

cause to be placed upon the port district ballot, following the names of the candidates to be voted upon at such election, the statement of the propositions or proposals to be voted upon together with appropriate spaces for voting for or against such propositions or proposals. (History: S.L. 1969, Ch. 55)

**70-1215. ADDITIONAL ELECTIONS.** Additional elections within any port district may be held at such times and for the submission of such propositions or proposals as the port commission may by resolution prescribe, subject to the limitations provided in section 34-106, Idaho Code. Such elections shall be conducted by the county clerk in accordance with the general election laws of the state, including chapter 14, title 34, Idaho Code. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**70-1217. ADDITIONAL ELECTIONS — POLLING PLACES.** For such additional elections, there shall be not less than one (1) polling place within each port commissioner district. It shall be the duty of the county commissioners at least twenty (20) days before all special elections, to designate by resolution the polling places for such special election, and the county clerk shall appoint election officials for each polling place. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118; S.L. 2009, Ch. 341)

**70-1218. ADDITIONAL ELECTIONS — REGISTRATION BOOKS.** As provided in section 34-1402, Idaho Code, the county clerk of any county in which a port district is located shall maintain the register of electors and make such register available to the election officials of the port district. (History: S.L. 1969, Ch. 55; S.L. 1995, Ch. 118)

**70-1219. ELECTIONS — CANVASS OF VOTES.** The returns of all port district elections shall be canvassed by the county commissioners, who shall meet and proceed to canvass the same in accordance with the provisions of chapter 12, title 34, Idaho Code, and shall thereupon declare the results. (History: S.L. 1969, Ch. 55; S.L. 2009, Ch. 341)

**70-1220. ELECTIONS — EXPENSES.** All expenses of elections for the formation of a port district and annexations thereto, and any other port district elections, shall be paid by the county or counties holding such election, and such expenditure is hereby declared to be for a county purpose. (History: S.L. 1969, Ch. 55; S.L. 2009, Ch. 341)

## ***Weather Modification District Elections Frequently Asked Questions***

### **When are weather modification district elections held?**

Elections for trustees for weather modification districts are held on the third Tuesday in May in odd-numbered years. Bond, levy and other ballot question elections may be held on the third Tuesday in May or the Tuesday following the first Monday in November of any year. (22-4301, 34-106, *Idaho Code*)

### **How many trustees are elected in a weather modification district and what are their terms of office?**

Each weather modification district is governed by a board of three (3) trustees. Each trustee is elected on a district wide basis and serves a term of four (4) years. Terms are staggered. (22-4301, *Idaho Code*)

### **How do I know if I'm eligible to vote in a weather modification district election?**

You must be a qualified elector (i.e. registered voter) of the State of Idaho and a resident of the district. "Qualified elector" means any person who is eighteen (18) years of age, is a United States citizen and who has resided in this state and in the county at least thirty (30) days next preceding the election at which he desires to vote, and who is registered as required by law. The County Clerk's election department or the secretary of the district can tell you if you are eligible to vote in district elections. (22-4301, 34-104, 34-1402, *Idaho Code*)

### **What are the requirements if I want to run for weather modification district trustee?**

Trustee candidates must be qualified electors of the district.

Candidates for election as a weather modification district trustee file nominating petitions which include the name of the candidate, the office that the candidate is running for, the term of office and signatures of at least five (5) electors from the district.

The Declaration of Candidacy and Petition of Candidacy forms are received from and filed with the secretary of the district. However, forms can also be obtained from the County Clerk's Election Office.

The nomination must be filed not later than 5:00 p.m. on the ninth Friday preceding the election. The county clerk has seven (7) days following the filing to verify the qualifications of the nominee and certify that person to be placed on the ballot. (22-4301, 34-1404, *Idaho Code*; see *Election Consolidation Calendar for dates*)

### **Who is responsible for administration of the election?**

The county clerk administers district elections in accordance with the provisions of Title 34, Chapter 14. The county clerk shall appoint judges, give notice of election by publication, and arrange such other details in connection therewith. (22-4301, 34-1401, *Idaho Code*)

### **Are write-in candidates allowed?**

Yes, but write-in candidates must file a declaration of intent in order for votes cast for them to be counted. This declaration of intent must be filed with the secretary of the district not less than forty-five (45) days before the election. Declaration of Intent forms are available from the secretary of the district or the County Clerk's Election Office. (22-4301, 34-1407, *Idaho Code*)

### **What if only one candidate files?**

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) candidate has been nominated for a trustee position, no election will be held. The board of trustees of the district shall declare such candidate elected as trustee, and the secretary of the district shall immediately make and deliver to such person a certificate of election. (22-4301, 34-1407, *Idaho Code*)

## ***Weather Modification District Elections Frequently Asked Questions***

### **Is absentee voting allowed?**

Yes. Any registered elector of the weather modification district may vote by absentee ballot. Absentee ballots must be requested in writing from the county clerk. To request an absentee ballot to be mailed to the voter, the request must be received no later than 5 p.m. on the eleventh day before the election. In-person absentee voting is available in the County Clerk's Election Office until 5 p.m. on the Friday before the election. (34-1002, 34-1408, Idaho Code)

### **What hours are polling places open?**

The polls open at 8:00 a.m. and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first. However, the county clerk may, at his option, open the polls in his jurisdiction at 7:00 a.m. (34-1409, Idaho Code)

### **Can weather modification district trustees be recalled?**

Yes. The provisions and procedures to recall political subdivision elected officials are outlined in Title 34, Chapter 17, Idaho Code. (34-1701, Idaho Code)

### **How are vacancies filled?**

Statute is silent on procedure. Section 59-912, Idaho Code, may come into play (i.e., Governor appoints).

**Weather Modification District Elections  
Selected Code Sections**

**22-4301. ESTABLISHMENT — PETITION — ELECTION.** (1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) resident real property holders of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain a weather modification district within the county as may be designated in the petition.

(a) A petition to form a weather modification district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall give notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed district for the purpose of determining whether or not the proposed district shall be organized and to elect the first board of trustees for the district. Such notice shall include the date and hours of the election, the polling places, the maximum percent of market value for assessment purposes of taxable property within the district which the proposed district will be permitted to levy, the general purposes of the proposed district, a description of lands to be included in the proposed district, a statement that a map of the proposed district is available in the office of the board of county commissioners, and the names and terms of the members to be elected to the first board of trustees. The notice shall be published once each week for three (3) consecutive weeks prior to such election, in a newspaper of general circulation within the county.

(d) The election shall be held and conducted consistent with the provisions of chapter 14, title 34, Idaho Code. The county clerk shall appoint judges of election, one (1) of whom shall act as clerk for the election. At such election the electors shall vote for or against the organization of the district and the members of the first board of trustees.

(e) The county clerk shall certify the returns of the election to the board of county commissioners. If a majority of the votes cast at said election are in favor of the organization, the board of county commissioners shall declare the district organized and give it a name by which, in all proceedings, it shall thereafter be known, and shall further designate the first board of trustees elected, and thereupon the district shall be a legal taxing district.

(f) On the third Tuesday of May, in the next odd-numbered calendar year after the organization of any district, and on the third Tuesday of May every odd-numbered year thereafter, an election shall be held.

At the election in any district hereafter organized, there shall be elected by the qualified electors of the district, two (2) members of the board to serve for a term of four (4) years; at the next odd-numbered year election, there shall be elected one (1) member of the board to serve for a term of four (4) years. Such election shall be held and conducted consistent with the provisions of chapter 14, title 34, Idaho Code.

In any election for trustees, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a trustee position, it shall not be necessary for the candidate to stand for election, and the board of trustees of the district shall declare such candidate elected as trustee, and the secretary of the district shall immediately make and deliver to such person a certificate of election. (History: S.L. 1975, Ch. 145; S.L. 1982, Ch. 254; S.L. 1995, Ch. 118, S.L. 2011, Ch. 11)